



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MND, MNSD, OPC, MNR, MNDC, FF*

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession pursuant to a notice to end tenancy for cause. The landlord also applied for a monetary order for loss of income, unpaid rent, unpaid utilities, the cost of cleaning, repairs and the filing fee. The landlord applied to retain the security deposit in partial satisfaction of her claim.

The landlord sent a copy of her application and the notice of hearing to the tenant by registered mail on September 24, 2019, to the rental unit. The landlord filed a copy of the tracking slip. The package was returned to the landlord. On or about October 01, 2019, the tenant moved out of the rental unit and gave the landlord her forwarding address by text message on October 16, 2019. On November 03, 2019, the landlord re-sent the hearing package to the tenant by registered mail to her forwarding address and filed a copy of the tracking slip. This package was also returned to the landlord marked unclaimed.

Residential Tenancy Policy Guideline No. 12 provides that, where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Based on the landlord's evidence and pursuant to section 89 and 90 of the *Act*, I find that the tenant has been deemed served with the landlord's dispute resolution hearing package on September 29 and November 05, 2019, 5 days after the mailing of the packages. The tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

At the start of the hearing the landlord informed me that since the tenant moved out on October 01, 2019, she is no longer in need of an order of possession. Accordingly, this portion of the landlord's application is moot and accordingly dismissed. Therefore, this hearing only dealt with the landlord's application for a monetary order.

Issues to be decided

Is the landlord entitled to a monetary order for the for loss of income, unpaid rent, unpaid utilities, the cost of cleaning, repairs and the filing fee.? Is the landlord entitled to retain the security deposit?

Background and Evidence

The tenancy started on March 01, 2019. The monthly rent was \$1,800.00 payable on the first of each month. Prior to moving in the tenant paid a security deposit of \$900.00. The landlord submitted that the tenant left the rental unit in a dirty condition that required repairs which included the replacement of flooring and replacement of a fire place and baseboard heating.

The landlord stated that the tenant failed to pay rent and utilities for September 2019 and moved out without informing the landlord. The landlord visited the unit on October 01, 2019 and found that the tenant had moved out but left a lot of her possessions behind.

The landlord found that the tenant had a cat and a dog residing in the unit without the permission of the landlord. The damage caused by the pets included shredding of curtains and urine and faeces everywhere. The landlord stated that there was a closet which was used a bathroom by the pets and was full of excrement and a baseboard heater was dented and covered with pet faeces.

The garage floor was covered with oil stains, bulbs were missing, and the patio door was broken and placed outside. The tenant did not return the garage remote control. The tenant also left behind several pieces of furniture, mattresses, unwanted clothing, garbage etc. The landlord took these items to the dump for disposal.

The landlord filed photographs and invoices to support her monetary claim. The photographs are very explicit and show the damage done to the rental unit in detail.

The landlord is claiming the following:

1.	Dumping fees	\$110.75
2.	Repair supplies	\$368.02
3.	Flooring	\$1,011.36
4.	Electric fireplace	\$367.49
5.	Replace curtains	\$99.95
6.	Garage remote	\$54.98
7.	Interior door	\$47.37
8.	Replace baseboard heater	\$53.78
9.	Loss of income for October and November	\$3,600.00
10.	Unpaid rent plus unpaid utilities for September	\$2,471.70
11.	Filing fee	\$100.00
	Total	\$8,285.40

Analysis

Based on the undisputed testimony of the landlord, the photographs and invoices filed into evidence, I find that the landlord has proven her monetary claim for items #1 to #8.

9. Loss of income for October and November - \$3,600.00

Residential Tenancy Policy Guideline #3 states that the damages awarded are an amount sufficient to put the landlord in the same position as if the tenant had not breached the agreement. As a general rule, this includes compensating the landlord for any loss of rent up to the earliest time that the tenant could legally have ended the tenancy. The tenant moved out on October 01, 2019 which resulted in a loss of income for October 2019.

Even where a tenancy has been ended by proper notice, if the premises are un-rentable due to damage caused by the tenant, the landlord is entitled to claim damages for loss of rent. The landlord is required to mitigate the loss by completing the repairs in a timely manner.

In this case the tenant left the unit in a condition that required considerable repair and cleaning. Therefore, I find that the rental unit was unavailable for November while the restoration work went on. This resulted in a loss of income for the landlord. I find that the landlord is entitled to the income that she lost for the month of November.

Based on the above, I award the landlord her claim for loss of income for the months of October and November 2019 in the amount of \$3,600.00.

10. Unpaid rent plus unpaid utilities for September - \$2,471.70

The tenant failed to pay rent and utilities for September 2019. The landlord filed a copy of the utility bill. I find that the landlord is entitled to her claim.

11. Filing fee - \$100.00

Since the landlord has proven her claim, she is also entitled to the filing fee.

Overall the landlord has established her entire claim of \$8,285.40. I order that the landlord retain the security deposit of \$900.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$7,835.40. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order for the amount of **\$7,835.40.**

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 28, 2019

Residential Tenancy Branch