



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Locke Property Mgmt. Ltd. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR MNDC MNSD FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on January 9, 2020. The Landlord applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord attended the hearing. The Tenant did not attend the hearing. The Landlord stated that he sent the Tenant the Notice of Hearing by registered mail, on September 13, 2019, to the forwarding address provided by the Tenant in her written notice to end tenancy. The Landlord stated that he sent a second package containing his evidence to the Tenant, to the same address, on December 20, 2019, by registered mail. Proof of mailing was provided. Pursuant to section 88, 89, and 90 of the Act, I find the Tenant is deemed to have received these packages 5 days after they were mailed, on September 18, 2019, December 25, 2019, respectively.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Landlord entitled to a monetary order for rent or for damage or loss under the Act?
- Is the Landlord entitled to retain all or a portion of the Tenant's security deposit in partial satisfaction of the monetary order requested?

- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord stated that the Tenant was under a fixed term tenancy agreement starting on December 1, 2018, and ending November 30, 2019. Monthly rent was set at \$1,900.00 per month, due on the first of the month. The Landlord stated that the Tenant ran into financial trouble in the summer of 2019. The Landlord stated that he made an agreement with the Tenant that she could terminate the lease early, on September 30, 2019. The Landlord stated that the owner planned on taking over possession of the house after the Tenant moved out so that she could prepare to sell it. The Landlord confirmed that they still hold a security deposit in the amount of \$950.00.

The Tenant signed and dated her notice to end tenancy on August 1, 2019, stating that she would vacate the unit by September 30, 2019. This was provided into evidence. The Landlord stated they accepted this but expected the Tenant to stay, and pay rent until the end of September 2019. The Landlord stated that the Tenant moved out sometime in late August or early September and didn't pay rent for September. The Landlord stated that the Landlord had planned to place the house on the market to sell once the Tenant moved out at the end of September 2019, so it was not possible to re-rent the unit for September to recover the lost rent, as it was an awkward window of time.

The Landlord is seeking to recover \$1,900.00 in unpaid rent for September 2019, as they were unable to find someone to rent the house for one month. The Landlord further stated that the Tenant did not do any cleaning before she left, and there was a significant mess in kitchen (appliances, windows). The lack of cleaning is reflected in the move-out inspection provided into evidence. The Landlord provided a copy of the invoice showing they paid \$249.38 to have two cleaners come for 4.75 hours.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim.

In this instance, the burden of proof is on the Landlord to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenants. Once that has been established, the

Landlords must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did everything possible to minimize the damage or losses that were incurred.

I note that the Tenant was under a fixed term tenancy agreement until the end of November 2019. I also note the Tenant ran into financial troubles in the summer of 2019, and at that time, she and the Landlord agreed to alter the end date of the fixed term to September 30, 2019. The Tenant signed and provided a notice to end tenancy on August 1, 2019, stating she would be out by September 30, 2019.

I note the Landlord accepted and agreed to this and I find both parties agreed to alter the fixed term end date to September 30, 2019. I accept that the Landlord had planned to take possession of the house back after the Tenant moved out and the manner and timing in which the Tenant vacated left an awkward window of time in terms of being able to re-rent it and mitigate the losses.

Ultimately, I find the Tenant breached her agreement with the Landlord and did not honour the end date specified in her notice to end tenancy. I also find this put the Landlord in a difficult position in terms of being able to mitigate the September rent loss. As such, I find she is responsible for rent for the month of September 2019, in the amount of \$1,900.00.

Further, the undisputed evidence before me shows that the Tenant did not sufficiently clean the rental unit, prior to moving out. I find the costs associated with cleaning are reasonable, and I award the full amount of the costs they incurred, as per the invoice. I award \$249.38.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was substantially successful with his application, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution. Also, I authorize the Landlord to retain the security deposit to offset the money owed.

In summary, I find the Landlord is entitled to the following monetary order:

Item	Amount
Lost Rent	\$1,900.00
Cleaning Fees	\$249.38

PLUS: Filing Fee	\$100.00
Subtotal:	\$2,249.38
LESS: Security Deposit	\$950.00
Total Amount	\$1,299.38

Conclusion

The Landlord is granted a monetary order in the amount of **\$1,299.38**, as specified above. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: January 09, 2020

Residential Tenancy Branch