



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing dealt with an application by the landlord pursuant to sections 38, 67 and 72 of the *Residential Tenancy Act* for a monetary order for unpaid rent, loss of income, cost of cleaning and repair, liquidated damages and for the recovery of the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of the claim.

The landlord testified that she served the tenant with the notice of hearing and evidence package by email on May 07, 2020. Under the order of the Director dated March 18, 2020, a document could be served by email for the duration of the state of emergency due to the Pandemic. The landlord filed proof of service by email.

Despite having been served the notice of hearing package, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to a monetary order for unpaid rent, loss of income, cost of cleaning and repair, liquidated damages and for the recovery of the filing fee? Is the landlord entitled to retain the security deposit?

Background and Evidence

The landlord testified that the tenancy started on November 15, 2019 for a fixed term ending November 30, 2020. The monthly rent was \$1,500.00 payable on the first of each month. Prior to moving in the tenant paid a security deposit of \$750.00 which the landlord is holding.

A tenancy agreement was filed into evidence. A clause in the agreement requires the tenant to pay liquidated damages of \$630.00 if the tenant ends the tenancy prior to the end date of the fixed term.

The tenant failed to pay rent that was due on April 01, 2020 and requested the landlord to allow her some time to pay, as she was financially affected by the Pandemic. On April 06, 2020, the parties signed an agreement in which the tenant agreed to pay the landlord rent for April 2020 in full, on April 30, 2020.

On May 01, 2020, the tenant sent the landlord an email informing her that she was moving out that day. The landlord carried out a move out inspection in the absence of the tenant and filed a report into evidence. The report indicates that the tenant left the unit in a dirty and damaged condition. The landlord filed photographs to support her testimony. The landlord filed a receipt for cleaning and repair in the amount of \$500.00.

The tenant provided the landlord with her forwarding address by email dated May 07, 2020. The landlord made this application on that same day.

The landlord is claiming the following:

1.	Rent for April 2020	\$1,500.00
2.	Loss of income for May 2020	\$1,500.00
3.	Liquidated damages	\$630.00
4.	Cleaning and repair	\$500.00
4.	Filing fee	\$100.00
	Total	\$4,230.00

Analysis

Based on the sworn testimony of the landlord and in the absence of evidence to the contrary, I find that the tenant did not pay rent for April 2020 and signed a deferral agreement to pay by April 30, 2020. I accept the landlord's testimony that the tenant did not comply with the agreement and owes \$1,500.00 for rent for April 2020.

Section 45(2) of the *Residential Tenancy Act* states that a tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that:

- (a) Is not earlier than one month after the date the landlord receives the notice
- (b) Is not earlier than the date specified in the tenancy agreement as the end of the tenancy and
- (c) Is the day before the day in the month on which the tenancy is based that rent is payable under the tenancy agreement.

On May 01, 2020 the tenant gave written notice to end the tenancy effective May 01, 2020. Since rent is due on the first, by giving notice on May 01, 2020, the earliest the tenant could end the tenancy is June 30, 2020. The landlord is claiming loss of income for the month of May 2020. I find that the landlord is entitled to her claim.

By signing the tenancy agreement for a fixed term tenancy, the tenant agreed to pay liquidated damages of \$630.00 in the event she ended the tenancy prior to the end date of the fixed term. The tenant breached the tenancy agreement when she ended the tenancy on May 01, 2020. I find that the landlord is entitled to her claim.

The landlord filed adequate evidence by way of photographs, inspection reports and an invoice, to support her claim for the cost of cleaning and repairs. Accordingly, I award the landlord her claim of \$500.00.

Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$100.00.

Overall, the landlord has established her entire claim of \$4,230.00. I order that the landlord retain the security deposit of \$750.00 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 \$3,480.00. 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 of **\$3,480.00**.

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: September 08, 2020

Residential Tenancy Branch