

# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **DECISION AND REASONS**

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

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for rent for November 2008, loss of income for December and January 2009, costs for cleaning and repairs to the rental unit and for the filing fee.

The tenant moved out without giving the landlord a forwarding address. The landlord found out where the tenants had moved to, by hiring a commercial company that specializes in tracing individuals.

Service of the hearing document, by the landlord to the tenant, was done in accordance with section 88 of the *Residential Tenancy Act*, sent via registered mail on May04, 2009. The landlord filed a receipt with a tracking number.

Despite having been served the notice of hearing, 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 rent, loss of income, cleaning and repair costs and the filing fee?

### **Background and Evidence**

The landlord testified that the tenancy started on October 01, 2008 for a fixed term of one year. The monthly rent was \$1050.00 payable on the first day of each month. The tenant paid a security deposit of \$525.00 prior to moving in and agreed to pay a pet damage deposit sometime during the first month of the tenancy. The landlord made several attempts to collect the pet deposit by leaving messages for the tenant.

The tenant did not return the landlord's calls. Finally, on October 29, 2009, the landlord served the tenant with a notice to end tenancy.

The tenant put a stop payment on her rent cheque for November. On November 12, 2009, the landlord visited the suite (with appropriate notice given to the tenant) to find that the tenant had vacated the suite and had left some furniture behind. The landlord also found damage to the front door and the walls, the carpet soiled in places, a dirty stove and food items in the cupboards and refrigerator.

The landlord advertised the availability of the suite immediately in three local newspapers and on the internet. Despite her efforts to find a tenant, the suite remained unoccupied for December and January. A new tenant moved in on February 01, 2009.

The landlord has filed photographs of the condition of the suite and invoices for the costs of advertising, changing the locks, steam cleaning the carpets, paint, replacing the parking pass and the skip trace search.

The landlord is claiming the following:

|     |   |                   |
|-----|---|-------------------|
| 1.  | Rent for November 2008                      | \$1,050.00        |
| 2.  | Loss of income for December to January 2009 | \$2,100.00        |
| 3.  | Changing locks                              | \$78.75           |
| 4.  | Carpet cleaning                             | \$157.50          |
| 5.  | Cost of mailing                             | \$20.42           |
| 6.  | Paint                                       | \$49.07           |
| 7.  | Replace parking pass                        | \$35.00           |
| 8.  | Skip Trace Search                           | \$289.80          |
| 9.  | Pet Damage deposit                          | \$525.00          |
| 10. | Filing fee for two applications             | \$100.00          |
|     | <b>Total</b>                                | <b>\$4,405.54</b> |

### **Analysis**

Based on the undisputed sworn testimony of the landlord, I find that the tenant ended the fixed term tenancy prior to the end date as stipulated in the tenancy agreement and without giving the landlord any notice to do so.

Section 45 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 is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable and is not earlier than the date specified in the tenancy agreement as the end of the tenancy.

In this case the tenant put a stop payment on her rent cheque for November and moved out without notifying the landlord. I find that the tenant owes rent for November. Despite the landlord efforts to mitigate her losses, she suffered a loss of income for the months of December 2008 and January 2009. Therefore, I find that the landlord is entitled to an amount sufficient to put the landlord in the same position as if the tenant had not breached the agreement, which is the amount of the loss of income for December and January.

Based on the sworn oral testimony and documentary evidence filed by the landlord, I find that the landlord has established a claim for changing locks (\$78.75), carpet cleaning (\$157.50), paint (\$49.07) and replacement parking pass (\$35.00).

Section 20 of the *Residential Tenancy Act*, states that a landlord must not require a security deposit at any time other than when the landlord and tenant enter into the tenancy agreement. Accordingly, I find that the landlord may not claim a pet security deposit at this time and her claim for \$525.00 for a pet damage deposit is dismissed.

The legislation does not permit me to award any litigation related costs other than the filing fee. Therefore, the tenant's claim for mailing, skip trace search and the filing fee for a prior application is dismissed. The landlord is entitled to the filing fee for this application.

Over all, the landlord has established a claim for \$3520.32. I order that the landlord retain the security deposit of \$525.00 and interest of \$2.17 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 \$2993.15. 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 in the amount of **\$2993.15**

Dated July 31, 2009.

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Dispute Resolution Officer