

DECISION

Dispute Codes: MND, MNR, FF

This hearing dealt with an application by the landlord for a monetary order for loss of income and costs incurred in addressing the damages.

At the outset of the hearing, the landlord said that she did not serve the tenants with the document package received by the Residential Tenancy Branch on July 3, 2009. I have therefore not accepted documents contained in this package as evidence for this hearing.

The tenancy began on June 1, 2006 for a fixed term ending May 31, 2007. On April 26, 2006, the landlord collected a security deposit in the amount of \$1550.00 from the tenants. A monthly rent in the amount of \$3350.00 was payable in advance on the first day of each month. On April 30, 2009, the tenants moved out of the unit.

The landlord is claiming for the following loss of income and costs incurred in addressing the damages.

Loss of Income

The landlord is seeking recovery of the loss of income for the month of May in the amount of \$3350.00. The landlord said that 1) after May 31, 2007, the tenancy was renewed for two further fixed terms and 2) the tenants had failed to give her the required notice to end tenancy as she did not receive such notice until a few days after March 30, 2009.

The tenants maintained that after the initial fixed term ending May 31, 2007, the tenancy became a month-to-month tenancy. The tenants also maintained that

on March 30, they put their notice to end tenancy into the landlord's mail slot and on March 31, the landlord telephoned them to confirm receipt of this notice.

I find no documentary evidence to indicate that after May 31, 2007, the tenancy was for fixed term tenancy. I therefore find that after May 31, 2007, the tenancy was on a month-to-month basis. The landlord gave several dates as to when she received the tenants' notice to end tenancy. In her written submission, she stated that she received such notice on April 30. During the hearing, the landlord first said that she received the notice on March 30. She then changed her testimony to state that she received the notice on April 2 as she was away. Later, she changed her testimony again to state that she did not remember when she received the notice but it was a few days after March 30. The landlord gave no evidence to explain the above inconsistencies. Based on the above, I find the landlord's testimony on this issue not to be credible or trustworthy and I have not accepted it as supporting evidence for this hearing. I have accepted the tenants' evidence and find the tenants to have served the landlord with the notice to end tenancy on March 30.

Based on the above, I find that the tenants had given the required notice to end tenancy as stipulated in section 45 of the *Residential Tenancy Act*. Accordingly, I also find that the tenants are not responsible for the landlord's loss of income after their tenancy ended on April 30, 2009 and I dismiss the landlord's claim for the loss of income for the month of May.

Kitchen Cabinet

Both parties agreed that there was damage to the side of the kitchen cabinet at the end of tenancy. The landlord maintained that the tenants had caused the damage during the tenancy. The landlord said that during her visit of the tenants' unit in early December, she noticed the stain on the cabinet but did not have a discussion with the tenants about it. To support her claim, the landlord submitted

a move in and move out condition inspection report which indicates that such damage occurred during the tenancy. The tenants said that the dishwasher had failed to ventilate properly and therefore caused the stain. They added that during the landlord's visit on December 1, they informed the landlord of the problem but the landlord had never followed up with the problem. To support their claim, the tenants submitted a letter dated March 30, 2009 addressed to the landlord. In this letter, the tenants referred to their December 1 discussion on how the defect of the dishwasher had caused a stain on the cabinet.

The landlord said that both a dishwasher technician and the building manager told her that the dishwasher could not have caused the stain on the cabinet. I find no documentary evidence to support the landlord's allegation in this regard. The landlord also said that the tenants had never informed her of the problem. I note that 1) the landlord said that she had noticed the damage during the December 1 visit but said nothing; 2) the landlord had referred to the damage in her March 24 letter to the tenants and 3) the tenants had referred to their December 1 discussion about the problem in their March 30 letter to the landlord. Based on the above, I find that the tenants had likely informed the landlord of the problem during the tenancy. I also find that the landlord has not provided sufficient evidence to show that the tenants had caused the damage during the tenancy. Accordingly, I dismiss the landlord's claim in this regard.

Cleaning Costs

Both parties agreed that the tenants will pay the landlord \$130.00 as cleaning costs. Pursuant to the above agreement, I grant the landlord an order under section 67 for the amount of \$130.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated August 18, 2009.