



# Dispute Resolution Services

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

## Decision

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

### Introduction

This hearing dealt with the landlord's application for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing and had opportunity to be heard.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The parties agreed that the tenancy began on January 15, 2008 and ended on May 31, 2009. A security deposit of \$540.00 was paid on December 14, 2007.

The landlord testified that she did not receive the tenant's notice that she was vacating the rental unit until May 1. The tenant testified that she put the notice into the landlord's mailbox on April 30. The landlord seeks an award for loss of income for June and a late payment fee for June. The landlord testified that she advertises continuously in 3 newspapers and on Craigslist and testified that the suite was re-rented on September 1.

The tenant agreed that the landlord was entitled to an award of \$65.00 for carpet cleaning, \$25.00 for blind cleaning and \$385.00 for the cost of painting, which the landlord testified was the actual cost of painting, reduced from her original \$500.00 claim.

The landlord testified that the rental unit was not cleaned at the end of the tenancy. The landlord testified that she gave the tenant a form on which the tenant was asked to schedule a time to perform a move-out condition inspection. The landlord testified that the tenant did not schedule the inspection, so the landlord performed the inspection without the tenant. The landlord testified that it cost \$90.00 to clean the unit. The

tenant testified that she thoroughly cleaned the rental unit at the end of the tenancy.

### Analysis

The tenant was required to give one full month's notice to vacate. The Act permits the tenant to serve documents by putting the documents in the mailbox, but in such a circumstance the party receiving the document is deemed to have received it 3 days later. As the landlord acknowledged having received the notice to vacate on May 1, I find that is the date on which it was received. The tenant's failure to comply with the requirements of the Act to serve her notice one full month in advance has left her exposed to liability for any loss which can be directly attributed to the late notice. The landlord testified that she is in the practice of continually advertising vacancies in the building. She advertises in three newspapers and on Craigslist. The landlord testified that she was unable to re-rent the unit until September. In these circumstances, it is clear that the landlord acted reasonably to minimize her losses. However, I am unable to find that the landlord's loss can be attributed to the late notice. Had there been an interest in renting a suite in the building, the advertisements which were in place before the tenant vacated would have attracted prospective tenants. I find that the landlord's loss of income cannot be attributed to the tenant's late notice, but to a dearth of interested tenants. Accordingly I dismiss the landlord's claim for loss of income for the month of June.

As the tenancy ended on May 31, the tenant would not have been required to pay rent in the month of June and I therefore find that the landlord is not entitled to a late payment fee. That claim is dismissed.

The landlord is required under the Regulations to give the tenant a Notice of Final Opportunity to Schedule a Condition Inspection. In this case, the landlord failed to do so. I find that the condition inspection report, having been completed without the participation of the tenant, holds little evidentiary weight. The landlord provided no supporting evidence such as photographs or witness testimony to prove that the rental unit was unclean. I find that the landlord has failed to prove that the unit required cleaning and accordingly I dismiss the landlord's claim for cleaning costs.

As the tenant has agreed to the charges for carpet cleaning, blind cleaning and painting, I award the landlord \$65.00, \$25.00 and \$385.00 respectively for those claims. As the landlord has enjoyed partial success in her application I find it appropriate to award her one half, or \$25.00, of the filing fee paid to bring this application.

The landlord is awarded \$500.00. I order the landlord to retain \$500.00 from the security deposit and interest of \$548.50 and I order the landlord to return the balance of \$48.50 to the tenant forthwith. I grant the tenant a monetary order under section 67 for \$48.50. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

#### Conclusion

The landlord is awarded \$500.00 and is ordered to return \$48.50 to the tenant.

Dated September 17, 2009.

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