

DECISION

Dispute Codes:

MNSD, MNDC, MND, FF

Introduction

This hearing was convened in response to an orally amended application in the hearing by the landlord, filed October 15, 2010, pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. A Monetary Order for loss of rental revenue - Section 67;
2. An Order to retain the security / pet deposit - Section 38
3. A Monetary Order for Damages to the unit – Section 67
4. An Order to recover the filing fee for this application - Section 72.

Both parties attended the hearing and were given a full opportunity to present relevant evidence and make relevant submissions. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

The landlord forwarded *late* evidence to this hearing and claims they provided late same evidence to the tenant by sliding it under their new rental unit door. The tenant claims they did not receive the evidence. As the landlord's testimony is that they did not serve their evidence within the permitted time allowed, and did not do so in a manner prescribed by the Act, I found that I would not consider the landlord's document evidence. The matter proceeded on the merits of the sworn testimony of the parties.

Issue(s) to be Decided

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

There is no document evidence from either party associated with this claim. The disputed testimony / evidence in this matter are as follows. The tenancy began on July

31, 2010 as a one year fixed tenancy agreement. The tenant has since vacated. Rent in the amount of \$1400 was payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$700 which the landlord still retains. The landlord claims that at the end of September 2010 they learned that the tenant was vacating on September 30, 2010. The tenant claims they verbally notified the landlord they were vacating on September 10, 2010. The landlord claims that upon vacating they incurred unpaid electrical utility of \$258. The tenant disputes the amount as unreasonable as they were only in the suite 2 months during the summer. However, the tenant agrees that they did not pay utilities and that they owe the landlord a “reasonable” amount for utilities. The landlord claims \$11.20 for a mail (locker) locking device, which the tenant agrees was provided, but does not recall its outcome. The landlord claims pet damage to the sofa in the unit (landlord provided). The landlord claims that he witnessed cats in the unit when the tenant was not permitted any pets. He claims that the sofa suffered some claw marks. The tenant disputes that her cats caused any damage to the landlord's sofa. The landlord claims that he was able to re-rent the rental unit on October 20, 2010, thus mitigating his rental revenue losses following the lack of notice to end by the tenant, and is therefore claiming loss of revenue for the 20 days in October, in the pro-rated amount of \$933. The tenant disputes that she should pay the loss of revenue claim without occupying the rental unit, given she gave the landlord verbal notice, albeit late, in September 2010.

The parties agreed to resolve an issue of mistakenly acquired property (electric fireplace), by mutually accommodating a return of the item from the tenant to the landlord, between themselves.

The quantum of the landlord's monetary claim is in the sum of \$1202.20.

Analysis

Based on the affirmed testimony of both parties, and on the balance of probabilities, I find that the landlord's claim for unpaid utilities is sufficiently supported, and I grant the landlord a set amount of **\$180** for unpaid utilities.

The landlord has not sufficiently supported their claim for the ‘mail locker device’ in the amount of \$11.20. I therefore **dismiss** this portion of the landlord's claim without leave to reapply.

The landlord has not sufficiently supported their claim for damage to a sofa. I therefore **dismiss** this portion of the landlord's claim without leave to reapply.

On preponderance of the evidence I find that the landlord's claim for loss of revenue is supported. I prefer and accept the landlord's evidence that they were not provided adequate notice to vacate to allow them to re-rent the unit for October 01, 2010, and that they mitigated their claim by re-renting it for October 20, 2010. I therefore allow their claim for loss of revenue in the claimed pro-rated amount of **\$933**.

The landlord is entitled to recovery of the **\$50** filing fee, for a total entitlement of **\$1163**. The security deposit will be off-set from the award made herein.

Calculation for Monetary Order

Loss of revenue	\$933.00
Unpaid utilities	180.00
Filing Fees for the cost of this application	50.00
Less Security Deposit and interest <i>to date</i>	-700.00
Total Monetary Award	\$463.00

Conclusion

I order that the landlord retain the **deposit** \$700 in partial satisfaction of the claim and I grant the landlord an order under Section 67 of the Act for the balance due of **\$463**. If necessary, this order may be filed in the Small Claims Court and 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*.