

## DECISION

Dispute Codes      MND, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent. The tenant did not attend.

The landlord testified that he obtained the tenant's new address from a friend of the tenants and that he later confirmed this address with the tenant's sister. I accept that the landlord has sufficiently served the tenant with notice of this hearing.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for damage; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 26, 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord submitted into evidence a copy of a tenancy agreement signed by the parties on May 21, 2009 for a 1 year fixed term tenancy beginning on July 1, 2009 for a monthly rent of \$1,270.00 due on the 1<sup>st</sup> of each month and a security deposit of \$635.00 was paid.

The landlord's agent confirmed in his testimony that the tenancy ended in November 2009 after failing pay rent or providing notice to end the tenancy. The landlord submitted a hand written letter from the tenant, undated, that states she had to leave the rental unit without paying rent.

The landlord seeks compensation for rent for the month of November 2009 plus a late fee of \$25.00. The tenancy agreement submitted into evidence contains no clauses allowing the landlord to charge late rent fees. The landlord seeks also to be compensated for a key fob that was not returned in the amount of \$25.00.

The landlord has submitted into evidence a copy of a move out condition inspection indicating the rental unit need cleaning (\$15/hour for 7.5 hours – total \$230.00; carpet cleaning (\$141.75); and repairs to a wall (\$210.80). The landlord completed the cleaning work internally and hired a handyman to complete the wall repair. The landlord provided no receipt for the work completed by the handyman.

The landlord testified that the tenant had provided a forwarding address at the end of the tenancy but that when he tried to contact the tenant he received no response. He further testified that the tenant verbally authorized him to use the security deposit toward any debt she may have.

### Analysis

I accept the landlord's testimony that the tenant failed to pay rent for the month of November 29, 2009 and failed to give adequate notice to end the tenancy. As such, I find the tenant is responsible for the payment of rent for this rental period.

As the tenancy agreement submitted does not have a clause allowing the landlord to collect fees for the late payment of rent, I dismiss this portion of the landlord's application.

While I accept the tenant caused damage to the walls of the rental unit and as the landlord has not submitted a receipt for the wall repairs, I find the landlord has failed to establish the value of any loss related to the repairs. I dismiss this portion of the landlord's application.

I accept the landlord used internal resources for cleaning and carpet cleaning and has substantiated these costs resulting from the condition as noted in the move out condition inspection report. I also accept the tenant failed to repair a key fob and find the landlord has established entitlement to compensation for it.

However, Section 38(1) of the *Act* stipulates a landlord must, within 15 days of the end of the tenancy and receipt of the forwarding address, either return the security deposit less any mutually agreed upon (in writing) deductions or file an Application for Dispute Resolution to claim against the security deposit.

Section 38(6) stipulates that if the landlord fails to comply with Section 38(1) the landlord must pay double the amount of the security deposit. By the landlord's own testimony, he had the tenant's forwarding address, did not have written permission from the tenant to retain any of the security deposit; and failed to submit an Application for Dispute Resolution to claim against the security deposit.

As such, I find the tenant is entitled to double the amount of the security deposit.

### Conclusion

I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,716.75** comprised of \$1,270.00 rent owed; \$230.00 general cleaning; \$141.75 carpet cleaning; \$25.00 fob replacement and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct double the security deposit and interest held in the amount of \$1270.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$446.75**. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) 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*.

Dated: March 01, 2011.

---

Residential Tenancy Branch