

## **DECISION**

Dispute Codes      MNR, MNDC

### Introduction

This is an application filed by the Landlord for a monetary order for unpaid rent, for compensation for loss under the Act, regulation or tenancy agreement and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend.

### Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

### Background and Evidence

This tenancy began on October 1, 2009 on a fixed term tenancy for 3 years until September 30, 2012 as shown in the submitted signed tenancy agreement. The monthly rent is \$1,900.00 payable on the 1<sup>st</sup> of each month. A security deposit of \$950.00 was paid at the beginning of the tenancy. The Tenant gave notice to vacate the rental unit by email on June 24, 2010 to vacate on July 1, 2010. The Landlord received the Tenant's forwarding address in writing on July 3, 2010.

The Landlord states that the Tenant was served with the notice of hearing and evidence package on April 28, 2011 by registered mail and has included the registered mail receipt and the Canada Post tracking printout.

The Landlord is seeking \$950.00 which is ½ of the \$1,900.00 monthly rent for the loss of rental income for July 2010. The Landlord received an email dated June 24, 2010 allowing her to retain the security deposit of \$950.00 as compensation. The Landlord has applied the security deposit to the ½ month July rent.

The Landlord was able to mitigate her losses by re-renting the unit for August 1, 2010 at a lowered rent of \$1,650.00 for 1 year. The Landlord seeks a total of  $(\$250.00 \times 12 \text{ months})$  \$3,000.00 for August 1, 2010 until July 31, 2011.

The Landlord states that she was able to re-rent the unit for a further 1 year tenancy agreement at \$1,650.00 per month. The Landlord is seeking the difference of \$250.00 per month for the lowered monthly rent in the new tenancy agreement from August 1, 2011 until July 31, 2012 of  $(\$250.00 \times 12 \text{ months})$  \$3,000.00 and for the remaining two months from August 1, 2012 to September 30, 2012  $(\$250.00 \times 2)$  for \$500.00.

### Analysis

I am satisfied based upon the undisputed testimony supported by the Landlord's evidence that the Tenant was properly served with the notice of hearing and evidence packages by registered mail.

I find that the Tenant has breached the fixed term tenancy by ending it before the end of the agreed term. Based upon the testimony and evidence supplied by the Landlord, I am satisfied that the Tenant consented to surrender the security deposit of \$950.00 to the Landlord. The Landlord is entitled to compensation of  $\frac{1}{2}$  months rent of \$950.00 for the month of July 2010.

I am satisfied that the Landlord has incurred a loss as a result of the Tenant prematurely ending the fixed term tenancy and has tried to mitigate her losses. The Landlord is entitled to the difference of \$250.00  $(\$1,900.00 - \$1,650.00 = \$250.00 \text{ per month})$  of the monthly rent for August 1, 2010 until July 31, 2011 (12 months) totalling \$3,000.00.

I find that the Landlord has not yet incurred a loss for the term August 1, 2011 until September 30, 2012 (14 months). I find that this portion of the Landlord's claim is premature and dismiss it with leave to reapply.

The Landlord has established a total monetary claim of \$3,950.00. The Landlord is also entitled to recovery of the \$100.00 filing fee. I grant the Landlord an order under section 67 for the balance due of \$4,050.00. 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 granted a monetary order for \$4,050.00.

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: August 16, 2011.

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Residential Tenancy Branch