



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kendall Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The applicant(s) testified that the respondent was served with notice of the hearing by registered mail to the forwarding address provided by the respondent; however the respondent(s) did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is an application for a monetary order for \$3942.50, a request for recovery of the \$50.00 filing fee, and a request to retain the full security deposit towards the claim.

Background and Evidence

The applicant testified that:

- The tenant gave her notice to end the tenancy on October 26, 2012, and vacated on that same date.
- As a result of the short notice they lost the full rental revenue for the month of November 2012.
- The tenant also left the rental unit in need of significant cleaning and repairs.
- There is also a liquidated damages clause in the tenancy agreement that required the tenant to pay \$2450.00 in liquidated damages if the tenant does not give proper notice.

- They are therefore requesting a monetary order as follows:

November 2012 lost rental revenue	\$1225.00
Repairs	\$334.82
Carpet cleaning	\$150.00
General cleaning	\$520.00
Liquidated damages	\$2450.00
Filing fee	\$50.00
Total	\$4729.82

The applicant is also requesting an order to keep the full security deposit towards the claim and requests that a monetary order be issued for the difference.

Analysis

It is my finding that the tenant did fail to give the proper one clear month notice to end tenancy and therefore, since the landlords lost the rental revenue for the following month, I allow that portion of their claim.

I will not allow the claim for repairs, because after reviewing the repair invoice is my finding that the applicants have not shown that these repairs were required due to any willful or negligent actions on the part of the tenant.

I will allow the landlords claim for carpet cleaning and general cleaning, as is my finding that this rental unit was left in need of significant cleaning.

I will not allow the claim for liquidated damages. The liquidated damages clause only applies if the tenant terminates the tenancy before the specified date, and in this tenancy agreement the specified date was April 29, 2009, and therefore the tenant had completed the full term of the fixed term tenancy, and the liquidated damages clause does not apply to the month-to-month tenancy that followed.

Therefore the total amount of the claim that I have allowed is as follows:

November 2012 lost rental revenue	\$1225.00
Carpet cleaning	\$150.00
General cleaning	\$520.00
Filing fee	\$50.00
Total	\$1945.00

Conclusion

I have allowed \$1945.00 of the applicant's claims, and I therefore order that the applicants may retain the full security deposit of \$612.50 and have issued a monetary order in the amount of \$1332.50.

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 04, 2013

Residential Tenancy Branch

