



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 an application by the landlord for a monetary order and an order to retain the security and pet deposits in partial satisfaction of the claim. Both parties were represented at the hearing and had opportunity to be heard.

The landlord served the tenant with the application for dispute resolution and notice of hearing by delivering it to the tenant's father via registered mail at the father's address which is in the same building as the rental unit. The tenant's agents testified that the mail service at the building has not been operational until the last several days and as a result, the father did not receive the registered letter until very recently and that the tenant did not receive the documents until 32 hours before the hearing. Both of the landlord's agents testified that mail services have been available at the building for several months. I find that the tenant was properly served with the application for dispute resolution and notice of hearing and had ample opportunity to arrange for time off from work to attend the hearing or provide sworn affidavits.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for damage or loss?

Has the tenant extinguished his right to claim the return of the security and pet deposits?

Background, Evidence and Analysis

The parties agreed that the tenancy began February 4, 2008 and ended August 15, 2008. The parties further agreed that monthly rent was set at \$600.00 per month and that at the outset of the tenancy the landlord collected a \$300.00 pet deposit and

\$300.00 security deposit. I address the landlord's claims and my findings around each as follows:

- [1] **Unpaid rent.** The landlord claims \$600.00 in unpaid rent for the month of August. The landlord testified that the tenant failed to pay rent on August 1 and was served with a notice to end tenancy. The tenant's agents testified that the tenant was served with a one-month notice to end tenancy by which his tenancy was to end on August 5 and that he vacated in accordance with that notice. The tenant's agents further testified that the tenant attempted to pay rent on or about August 2 but that the landlord refused rent. When the landlord alleges that rent is unpaid, the burden shifts to the tenant to prove either that rent was paid or was not payable. The tenant's agents acknowledged that the tenant did not pay rent for the month of August and I find that the tenant has not proven that rent was not payable for that month. No notices to end tenancy have been entered into evidence and the fact that the tenant attempted to pay rent persuades me to believe that rent was due and payable on August 1. I award the landlord \$600.00 for unpaid rent for August.
- [2] **Cleaning.** The landlord testified that the tenant failed to clean the rental unit at the end of the tenancy and claims \$200.00 as the cost of cleaning, which involved 8 hours of cleaning at \$25.00 per hour. The tenant's agents testified that while the tenant returned to the rental unit to remove his belongings at the end of the tenancy, he did not clean the rental unit and there was no suggestion that the tenant had intended to clean the rental unit had he been given the opportunity to do so. I find the landlord's claim for 8 hours of cleaning to be reasonable, but in the absence of evidence showing how much was paid to those who performed the cleaning, I find the \$25.00 per hour charge to be excessive. I find it reasonable to award the landlord \$15.00 per hour for 8 hours of cleaning and I award the landlord \$120.00.
- [3] **Garbage removal.** The landlord claims \$210.00 as the cost of removing garbage from the rental unit at the end of the tenancy, which involved 6 hours of labour at a rate of \$35.00 per hour. The landlord testified that at the end of the

tenancy a number of items were left in the rental unit, including clothing, a couch pad, a mattress and box spring, a bed frame and head board, a television, a computer keyboard, a weight set, dishes, food, two microwave ovens, bedding and a stool. The tenant's agents acknowledged that items were left in the rental unit but testified that these items did not belong to the tenant but to a former roommate. As the former roommate's name was not on the tenancy agreement, I find that the tenant had the responsibility to ensure that the rental unit was completely vacant at the end of the tenancy. I find the tenant is responsible for the cost of removing the items left behind. I find the landlord's claim for 6 hours of labour to be reasonable, but in the absence of evidence showing how much was paid to those who performed the labour, I find the \$35.00 per hour charge to be excessive. I find it reasonable to award the landlord \$15.00 per hour for 6 hours of labour to remove the items and I award the landlord \$90.00.

- [4] **Door repairs and labour.** The landlord claims \$270.00 as the cost of labour to repair a broken door and frame and \$200.00 as the replacement cost of the door. The landlord testified that one of the doors and its frame required replacement at the end of the tenancy. The landlord further testified that 6 hours of labour at a cost of \$45.00 per hour was required to replace the door and that the door and frame were part of the landlord's stock and therefore an invoice for the price of the door and frame were unavailable. The tenant's agents acknowledged that a friend of the tenant's broke into the rental unit and caused the damage to the door and testified that the friend was charged by the police with breaking and entering. I find that the tenant is responsible for this damage. There is no evidence that the landlord was presented with a copy of a police report or information that might have led to the landlord making a claim against their insurance. I accept the landlord's charge for the \$200.00 cost of the door to be reasonable and I award the landlord that sum. I find the landlord's claim for 6 hours of labour to be reasonable, but in the absence of evidence showing how much was paid to those who performed the labour, I find the \$45.00 per hour charge to be excessive. I find it reasonable to award the

landlord \$15.00 per hour for 6 hours of labour to replace the door and I award the landlord \$90.00 for a total award of \$290.00.

- [5] **Administration fee and late fee.** The landlord withdrew her claim for an administration fee. The landlord seeks to recover a late payment fee for the month of August. The landlord failed to provide a copy of the tenancy agreement showing that the tenant agreed to pay a late payment fee and accordingly I dismiss the landlord's claim.
- [6] **Carpet cleaning.** The landlord seeks \$84.00 as the cost of cleaning the carpet. At the hearing the landlord acknowledged that the carpet was removed from the rental unit and was not cleaned. As the landlord did not suffer this loss, it is not recoverable from the tenant. The claim is dismissed.
- [7] **Keys.** The landlord seeks \$50.00 for the cost of keys to the front door of the building which were not returned and \$55.67 for the cost of replacing the lock on the rental unit at the end of the tenancy when the tenant failed to return the keys. The landlord provided a copy of an agreement whereby the person who was a co-tenant at the beginning of the tenancy agreed to payment of \$50.00 if keys to the building were not returned at the end of the tenancy. The tenant's agents testified that the tenant left the keys inside the rental unit at the end of the tenancy. The tenant's agents argued that the tenant should not be responsible for the \$50.00 charge for the front door keys because it was the co-tenant who entered into the agreement with the landlord and further argued that the landlord should have changed the locks at the end of the tenancy in any event. I find that the tenant is responsible for the contract that his co-tenant entered into. The tenant is jointly and severally liable for the contractual obligations of his co-tenant and I find the tenant failed to return the keys to the front door at the end of the tenancy. I award the landlord \$50.00. As for the cost of changing the locks on the door to the rental unit, the Act provides that a landlord does not have to change locks at the beginning of a new tenancy unless the tenants specifically request a lock change. I am not satisfied on the balance of probabilities that the tenant returned the keys at the end of the

tenancy and I find the landlord was justified in changing the locks. I award the landlord the \$55.67 cost of replacing the locks for a total award of \$105.67.

- [8] **Filing fee.** The landlord seeks to recover the \$50.00 paid to bring this application. I find that the landlord is entitled to recover the fee and award the landlord \$50.00.

Conclusion

In summary, the landlord has been successful in the following claims:

| | |
|-------------------------|-------------------|
| Unpaid rent | \$ 600.00 |
| Cleaning | \$ 120.00 |
| Garbage removal | \$ 90.00 |
| Door repairs and labour | \$ 290.00 |
| Keys | \$ 105.67 |
| Filing fee | \$ 50.00 |
| Total: | \$1,255.67 |

I find that the landlord has established a claim for \$1,255.67. I find that because the tenant failed to participate in the condition inspection of the rental unit at the end of the tenancy despite having been given opportunity to do so, the tenant has extinguished any claim he may have against the security and pet deposits. I order that the landlord retain the deposits and interest of \$606.44 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$649.23. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated October 22, 2008.