



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNDC, MNSD, FF

Introduction

This hearing dealt with an application from the landlord for a monetary order in compensation for costs associated with cleaning the unit following the end of tenancy, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony. Despite being served by way of registered mail with the application for dispute resolution and notice of hearing, the tenant did not appear.

Issue to be Decided

- Whether the landlord is entitled to a monetary order under the Act

Background and Evidence

Pursuant to a written residential tenancy agreement, the term of tenancy was from September 1, 2005 to the end of February 2006. Thereafter, the tenancy continued on a month-to-month basis. Rent in the amount of \$936.00 was payable in advance on the first day of each month, and a security deposit of \$434.00 was collected on August 12, 2005. By letter dated January 6, 2009, the tenant informed the landlord of his intent to vacate the unit by the end of January 2009. A move-in condition inspection and report was completed near the start of the tenancy. However, the tenant did not attend a move-out condition inspection scheduled to occur on January 31, 2009. Accordingly, the move-out condition inspection and report were completed without the tenant's participation.

As a result of carpet cleaning and other cleaning required in the unit following the tenant's departure, the landlord incurred costs in the total amount of \$344.00.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find that the landlord has established a claim for cleaning in the unit of \$344.00.

The landlord stated that a cheque in the amount of \$129.73 was mailed to the tenant on February 10, 2009. This was comprised of \$90.00 (balance of security deposit after deduction for cleaning costs), \$15.73 (interest accrued on security deposit), and \$24.00 (previous overpayment of rent).

It appears, therefore, that the only aspect of the dispute that remains unresolved is the landlord's claim for the \$50.00 filing fee. In this regard I grant the landlord a monetary order under section 67 of the Act for \$50.00.

For future reference, related to the particulars of this dispute the parties are advised of certain provisions set out in the Act. Section 45(1) of the Act addresses **Tenant's notice**, as follows:

45(1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement

Additionally, section 38 of the Act addresses **Return of security deposit and pet damage deposit**. In particular, section 38(1) of the Act states:

38(1) Except as provided in subsection (3) or (4)(a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make application for dispute resolution claiming against the security deposit or pet damage deposit.

Further, section 38(4)(a) & (b) provides:

38(4) A landlord may retain an amount from a security deposit or a pet damage deposit if,

(a) at the end of a tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant, or

(b) after the end of the tenancy, the director orders that the landlord may retain the amount.

Conclusion

I hereby grant the landlord a monetary order under section 67 of the Act for **\$50.00**.

This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: April 28, 2009

Dispute Resolution Officer