

DECISION

Dispute Codes MND MNR MNSD

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain a Monetary Order for damage to the unit, for unpaid rent or utilities, and to keep all or part of the security deposit in satisfaction of the landlord's claim.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on March 19, 2009. Mail receipt numbers were provided in the landlord's testimony. The tenant was deemed to be served the hearing documents on March 24, 2009, the fifth day after they were mailed as per section 90(a) of the *Act*.

Both the landlord and tenant appeared, acknowledged receipt of evidence submitted by the other, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, in documentary form, and to cross exam each other.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

The issues to be decided based on the testimony and the evidence are:

- Whether the landlord is entitled to a Monetary Order under section 67 of the *Act* for unpaid utilities, for damage caused to the rental unit, and to retain the security deposit as satisfaction of the claim pursuant to section 72 of the *Act*.

Background and Evidence

The tenancy began on June 1, 1999 as a fixed term tenancy and then switched over to a month to month tenancy until it ended on February 28, 2009. Rent of approximately \$1,521.00 was payable on the first of each month and the tenant paid a security deposit of \$625.00 on April 13, 1999.

The landlord testified that he would like to withdraw his claim of \$247.99 for utilities as he received documentation from the tenant which supports the tenant's statement that the water bill has been paid.

The landlord is claiming \$250.00 for carpet cleaning as the tenant failed to have the carpets steamed cleaned when the tenancy ended.

The tenant testified that he didn't have the carpets cleaned when the tenancy ended as he was under the impression that the carpets were going to be removed. The tenant testified that he agreed to pay the \$250.00 which the landlord is claiming for carpet cleaning.

The landlord advised that he had to clean up the yard and garage after the tenant vacated the rental unit. The landlord stated that the garage floor was left stained with oil and gas from the tenant's chain saws, which the tenant serviced and maintained in the garage, and that the landlord was concerned about environmental issues with the gas and oil being left on the garage floor.

The tenant testified that the garage was a mess at the beginning of the tenancy and the tenant stated that the garage was in better condition at the end of the tenancy.

The landlord stated that he was not aware of the condition of the garage at the beginning of the tenancy and that he believed the tenant's statement about the condition of the garage at the onset of the tenancy. The landlord testified that given the

tenant's statement about the condition of the garage, the landlord would like to withdraw his claim of \$193.44 for yard and garage cleanup.

Analysis

In regards to an Applicant's right to claim damages from the Respondent, Section 7 of the *Act* states that if the landlord or tenant does not comply with this *Act*, the non-complying landlord or tenant must compensate the other for damage or loss that results. Section 67 of the *Act* grants a Dispute Resolution Officer the authority to determine the amount and to order payment under these circumstances.

The landlord has withdrawn his claim of \$247.99 for unpaid utilities and the landlord has withdrawn his claim of \$193.44 for yard and garage cleanup.

The tenant has agreed to the landlord's claim of \$250.00 for carpet cleaning.

Monetary Order – I find that the landlord is entitled to a monetary claim, that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the tenant's security deposit as follows:

Carpet Cleaning	\$250.00
Less Security Deposit of \$625.00 plus interest of \$65.93	-690.93
TOTAL AMOUNT DUE TO THE TENANT	\$440.93

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim of \$250.00 to be applied against the tenant's security deposit. I HEREBY Order the landlord to refund the tenant the balance of the security deposit plus interest of \$440.93.

A copy of the tenant's decision will be accompanied by a Monetary Order for \$440.93. The order must be served on the landlord and is enforceable through the Provincial Court 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: May 19, 2009.

Dispute Resolution Officer