



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain a Monetary Order for damage to the unit and for compensation for damage or loss under the Act, an Order to keep all or part of the security deposit and to recover the cost of the filing fee.

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 April 15, 2009. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant was deemed to be served the hearing documents on April 20, 2009, the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Is the landlord entitled to a Monetary Order to cover the costs for repair to damages and cleaning of the rental unit?

- Is the landlord entitled to recover damages for the fines levied by the strata council for the tenants' actions?
- Is the landlord entitled to keep the tenants security deposit

Background and Evidence

This tenancy started on July 01, 2008 and ended on March 31, 2009. This was a rental unit in a new building and rent for the condo was \$1,975.00 per month due on the 1st of each month. The tenant paid a security deposit of \$987.50 on May 31, 2008. The landlord and tenant completed a move in condition inspection and the landlord completed a move out inspection in the tenant's absence. The tenant was given opportunity to attend but had moved out by this time. The tenant provided the landlord with a forwarding address on March 30, 2009. The landlord filed her application for Dispute Resolution on April 14, 2009.

The landlord testifies that the tenant was negligent in following the strata rules and as a consequence of this the landlord was fined \$450.00 by the strata council due to the tenants disregard of the strata rules and conditions 1) not following the strata move in and move out procedures, 2) incidents of excessive noise from the tenants condo, 3) illegal disposal of non household garbage, 4) unreturned keys and fobs which resulted in changing locks and reactivating the fobs. The landlord also testifies that when the tenants left the condo there was damage to the drywall which required repair and painting at a cost of \$561.22, lights missing at a cost of \$12.85 and dirty carpets which had to be cleaned before re-renting the condo at a cost of \$150.00. The landlord has submitted invoices and photographic evidence for these costs totalling \$1224.07. The landlord also claims a loss of revenue for April, 2009 of \$1,975.00.

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The landlord has requested that she would like to retain the tenants' security deposit and any accrued interest towards these costs and does not want to pursue the rest of her claim for a Monetary Order.

Analysis

The tenant did not appear at the hearing, despite having been sent a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I find that this was a brand new condo when the tenant rented it and after consideration of all the evidence presented I find that the tenants are responsible for the cleaning and damage to the condo.

The residential tenancy *Act* s. 32 (2) and (3) states that:

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

I find that the damage caused is beyond reasonable wear and tear. Therefore, I find in favour of the landlords claim to keep the tenants security deposit of \$987.50 and accrued interest of \$8.70 pursuant to s. 38(1)(d) of the *Act*.

I also find that the landlord has incurred additional costs due to the tenants disregard for the strata rules and regulation. Therefore, **I Order** the landlord to keep the tenants security deposit and accrued interest of **\$996.20** in partial payment of her monetary claim



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The landlord has chosen not to pursue the remainder of her Monetary Claim.

Conclusion

I HEREBY FIND in favor of the landlord's claim to retain the tenant's security deposit and accrued interest to the amount of **\$996.20**.

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 19, 2009.

Dispute Resolution Officer