

DECISION

Dispute Codes MNR, MND, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for monetary orders for unpaid rent, loss of rent, for compensation under the Act and the tenancy agreement, to retain the security deposit in partial satisfaction of the claim and to recover the filing fee.

Although duly served with the Application for Dispute Resolution and Notice of Hearing by registered mail, sent June 26, 2009, and deemed under the Act to be received five days later, the Tenants did not appear. I find the Tenants were served in accordance with the Act.

The Landlord provided affirmed testimony, documents and photographs in support of the claims.

Issue(s) to be Decided

Are the Landlords entitled to monetary compensation from the Tenants?

Background and Evidence

Based on the affirmed testimony and the evidence provided by the Landlord, I find that the Tenants were served with a 10 day Notice to End Tenancy for unpaid rent in May of 2009. The Tenants tried to give the Landlord a Notice to End Tenancy, however, it was unsigned and therefore, invalid under the Act.

The Tenants vacated the property, however, the Landlord claims he has incurred substantial costs to clean and repair the rental unit due to the condition it was left in by the Tenant.

The Landlord claims as follows:

a.	Unpaid rent for May 2009	1,350.00
c.	Strata move in and out fees	200.00
d.	Replace mail, entrance, door keys &, parking pass	230.36
e.	Strata cleaning oil stains from parking stall	25.00

f.	Reduction in rent to incoming renters	900.00
i.	Quotes for painting and cleaning unit	3,000.00
g.	Filing fee	100.00
	Total claimed	\$5,819.36

The Landlord had also claimed for legal fees at \$300.00 per hour, and interest on loans or overdrafts he secured to cover the rent and mortgage monies when the Tenants were late paying rent. The claim on his Application amounted to \$13,276.47. However, these items are not compensable under the Act, and therefore, I dismiss those claims.

Analysis

Based on the uncontradicted testimony, evidence, photographs and a balance of probabilities, I find the Tenants did not pay the rent due for May of 2009, gave two cheques to the Landlord which were returned for insufficient funds, failed to pay the required Strata fee for moving, failed to return keys and a parking pass, and left an oil stain which was cleaned and charged to the Landlord.

I find the Tenants breached the tenancy agreement and the Act, and these actions have caused losses to the Landlord.

I do not allow the Landlord the entire amounts quoted for painting and cleaning the unit, as I find these amounts are excessive, given the evidence provided and the state of the rental unit. I will reduce this amount to \$500.00, based on the market value of this type of work.

I dismiss the claim of the Landlord regarding the reduction in rent to the incoming occupants, or other costs due to the delay of the Tenants in moving out from the rental unit. The Tenants were in possession of the rental unit until the end of May and therefore, the Landlord should not have attempted to have the new occupants move in before the Tenants period of possession had ended. Furthermore, the Landlord had insufficient evidence of the rent reduction claim for the one year lease.

As the Landlord has only been partially successful, I also reduce the filing fee recovered to \$50.00

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the Landlord has established a total monetary claim of **\$2,369.00** comprised of the above described amounts in items a., b., c., d. and e., the \$500.00 for cleaning and painting, and the \$50.00 fee paid for this application.

I order that the Landlord may retain the deposit and interest of **\$704.62** in partial satisfaction of the claim and I grant the Landlords an order under section 67 for the balance due of **\$1,664.38**.

This order may be filed in the Provincial Court (Small Claims) and enforced 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: October 28, 2009.

Dispute Resolution Officer