



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

MND MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a Monetary Order for damage to the unit, site or property and to recover filing fee from the tenant for the cost of this application. The tenancy had already ended.

The landlord and tenant appeared and gave testimony in turn.

All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

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

- Whether the landlord is entitled to a monetary Order under section 67 of the *Residential Tenancy Act* for damages or loss.
- Has the landlord submitted proof that the claim for damages or loss is supported pursuant to *section 7* and *section 67* of the Act by establishing on a balance of probabilities:
 - a) that there was damage
 - b) that this damage was caused by the tenant during the tenancy and in violation of the Act
 - c) a verification of the actual costs to repair the damage

- d) that the landlord fulfilled the obligation to take reasonable measures to mitigate the costs

The burden of proof regarding the above is on the landlord/claimant.

Background and Evidence

The tenancy began on May 1, 2008 and ended in October 2009. The tenant paid a security deposit of \$900.00 at the beginning of the tenancy. The move-in and move-out condition inspection reports were not submitted into evidence nor was a copy of the tenancy agreement.

The landlord testified that when the tenant vacated the unit the tenant owed \$150.00 rent for the month of September and \$800.00 for October 2009 and had left the unit in an unsatisfactory condition. The landlord testified that a substantial amount of garbage needed to be removed at a cost of \$150.00 including \$37.00 for the dump fees. The landlord testified that 5 hours of interior cleaning at a cost of \$75.00 and carpet cleaning costing \$234.25 were required. The landlord testified that the upstairs carpets were not cleaned. The landlord had submitted photos of garbage left, stove burner not cleaned, carpeting, dusty window sill, dirt behind the refrigerator, chipped walls and the bathtub enclosure appearing to be grimy. The landlord testified that the yard needed 3 days of clean-up at a cost of \$250.00 but noted that more work was done than would have been expected of the tenant.. In addition to the above, the landlord was claiming \$8.53 for replacement keys, \$35.00 for a damaged door handle and \$25.00 to restart the furnace due it being permitted to run out of fuel.

The tenant acknowledged that there was garbage left outside the unit that needed to be removed and testified that this was left by his room-mates. The tenant felt that this would not cost more than \$50.00 to remove. The tenant testified that the unit was left in a reasonably clean condition. The tenant pointed out that the caulking around the tub shown in the photo was actually discoloured and the area around the stove burners was rust. The tenant disputed the need for the yard work being that the lawn was mowed 3

weeks prior. In regards to the carpet, the tenant testified that the landlord had cleaned the carpet prior to the end of the tenancy. The tenant testified that he had cleaned some of the carpets and only vacuuming should have been necessary.

Analysis: Damage Claim

In regards to the landlord's monetary claim for damages to the unit, I note that, in order to support compensation under section 67 of the *Act*, the landlord had the burden of proving the following:

- (1) Proof that the damage or loss existed and proof that this damage or loss happened solely because of the actions or neglect of the Respondent in violation of the Act or agreement
- (2) Verification of the actual amount required to compensate for the claimed loss or to rectify the damage.
- (3) Proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage.

Section 37(2) of the *Act* states that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. I find that the landlord's photographs verify that there was damage and cleaning needed. I accept that a substantial amount of garbage needed to be removed at a cost of \$150.00.

In regards to the cost of cleaning, I find that, while the tenant may have done some cleaning, there were portions of the unit that needed additional cleaning and the landlord had to spend time doing this work. I find that the landlord is entitled to be compensated in the amount of \$75.00 for the cleaning. In regards to the landlord's claim for carpet cleaning, I find that, the landlord did take over the carpet cleaning prior

to the ending of the tenancy and I find that the parties must therefore share in the cost. The landlord is entitled to \$100.00 for the carpet cleaning.

In regards to the yard work, I find that the tenant would have only been responsible for basic care and that would include keeping the lawn clipped on a regular basis.

However, I accept that the lawn was trimmed within 3 weeks as testified by the tenant. Accordingly, I find that the portion of the landlord's application relating to the clean-up of the yard must be dismissed.

In regards to the remaining claims, I find that the landlord is entitled to be compensated \$8.53 for the keys, \$20.00 for a portion of the cost of the door handle and \$25.00 to restart the furnace.

I find that the landlord is entitled to total compensation of \$2,313.53 comprised of \$150.00 rental arrears for September, \$1,800.00 rent for October 2009, \$100.00 for removal of garbage, \$60.00 for cost of cleaning, \$100.00 for carpet cleaning, \$8.53 for keys, \$20.00 for the broken door handle, \$25.00 to restart the furnace and the \$50.00 paid for this application.

Conclusion

Given the above, I find that the landlord is entitled to monetary compensation in the amount of \$2,313.53. I order that the landlord retain the security deposit of \$900.00 in partial satisfaction of the claim leaving a balance due of \$1,413.53.

The tenant must be served with the monetary order and the order may be filed with the Small Claims Court and enforced as an Order of that Court.

I hereby dismiss the remainder of the landlord's application without leave to reapply.

March 2010

Date of Decision

Dispute Resolution Officer