

DECISION

Dispute Codes MNR, MND, SS, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain an Order of Possession, a Monetary Order for unpaid rent, an Order to keep all or part of the security deposit and to recover the cost of the filing fee. This hearing was originally scheduled for January 28, 2010 but was reconvened to today's date to allow the applicant to re-send the evidence.

Service of the hearing documents and evidence, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, given to the tenant in person on September 30, 2009. A sworn affidavit of service was provided in the landlord's documentary evidence. The tenant was deemed to be served the hearing documents on September 30, 2009. As the landlord has served the tenant he no longer requires an Order for substitute service and this section of his application is withdrawn.

The landlord and his agent appeared, gave affirmed testimony, were provided the opportunity to present 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 recover any rent arrears?
- Is the landlord entitled to a Monetary Order for Damage to the rental unit, site of property?

Background and Evidence

The landlord states that this was a long term tenancy which started approximately 7 years ago in 2003. The actual date is unknown. Rent for this property was \$350.00 per month and was due on the first of each month. The tenant moved from the rental property on or about May, 30, 2009.

The landlord testifies that the tenant owed a balance of rent for June 2007 of \$246.25. Since that date the tenant has not paid rent up to the month she moved out. The tenant also owes rent from July 2007 to May, 2009 to a total amount of outstanding rent at \$8,296.25. The landlord claims that he spoke to the tenants' mother who also rents a property from him and she told the landlord she would pay some of her daughter rent arrears. However this did not happen and the tenant was eventually served with a 10 Day Notice to End Tenancy for unpaid rent in May 2009. The tenant vacated the rental property on or about May 30, 2009.

The landlord testifies that he did not go into the rental property after the tenant moved out however he did inspect the outside of the property and had to undertake a massive cleanup due to receiving a Notice from the city concerning the un-kept yard. The landlord testifies that he had an arrangement with the father of the new tenant that the repairs and cleanup of the property would be done by the father of the tenant for an agreement that she could rent the property.

The landlord testifies that he was informed that the linoleum was damaged and had to be replaced at a cost of \$1,653.15. The linoleum was approximately seven years old. The carpets were left extremely dirty and stained and were replaced at a cost of \$4,080.99. The carpets were seven years old.

The landlord has submitted an invoice for charges incurred for the dumpster to remove all the garbage from the yard and property at a cost of \$1,036.29 plus \$20.00 for a permit for it to be placed on the street.

The landlord testifies that the tenant had over fired the hot water tank which caused damage to the tank and resulted in having to replace the hot water tank and have the old one removed at a total cost of \$606.85 (invoice provided) The invoice states the plumbers professional opinion that the damage to the tank was caused by the tenant over firing the system.

The landlord has submitted invoices from a home hardware company for other repairs to the property which include repairs to the toilet and plumbing materials; exterior door replacement and hardware; painting supplies; cleaning supplies; hardwood slaps which the landlord believes were to replace some areas of the flooring; crown mouldings, casing and trims; plywood sheets; baker boards; repairs to the bathroom floor; exhaust fan in bathroom; tiles for the bathroom floor ; plumbing fixtures; new shower stall due to a lack of care by the tenant; damage to vanity in bathroom; electrical supplies; lighting tubes; replacement lens; kitchen fixtures; lock replacement and rekeying. The landlord has provided invoices for this work to a total cost of \$3,862.14. The landlord states that no move in or move out condition inspection were completed. The landlord has provided photographs of the property and yard showing excessive amounts of garbage and some areas of damage and cleaning inside the property.

The landlord agrees that he did not see the interior of the property or the extent of the damage to the property but was told by the repair men who took the photographs and provided invoices for repairs required. The landlord testifies that the property was renovated before the tenant moved in seven years ago by the same person who has carried out the repairs that are required at the end of this tenancy.

Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of the landlord. The tenant has not appeared at the hearing despite having been given Notice of this hearing. In this instance I find the landlord is entitled to recover rent arrears for June, 2007 of \$246.25. I also find that since that date the tenant has not paid rent for the 23 months from July, 2007 to May, 2009. Consequently I find the tenant owes a total amount of rent of **\$8,296.25** pursuant to s.67 of the *Act*.

Sections 23 and 35 of the Act say that a landlord must complete a condition inspection report at the beginning of a tenancy and at the end of a tenancy in accordance with the Regulations and provide a copy of it to the tenant (within 7 to 15 days). A condition inspection report is intended to serve as some objective evidence of whether the tenant is responsible for damages to the rental unit during the tenancy or if she has left a rental unit unclean at the end of the tenancy.

The purpose of having both parties participate in a move in condition inspection report is to provide evidence of the condition of the rental unit at the beginning of the tenancy so that the Parties can determine what damages were caused during the tenancy. In the absence of a condition inspection report, other evidence may be adduced but is not likely to carry the same evidentiary weight especially if it is disputed. The tenant has not disputed the landlords' claims for damage to the rental property or the costs to repair and clean the property and yard.

With regard to the landlords claim for damage to the rental property; I find the landlord has provided photographic evidence of the cleaning required to the property and the excessive amount of garbage left by the tenant. Some photographs also show some damage to the bathroom and wall, crown moldings and trims; however, the landlord has not provided any evidence to support his claim that this damage was caused by the tenant. The photographs do not show the damage to the linoleum flooring which the landlord states was damaged by the tenant and the bathrooms appear to have linoleum floor coverings rather than tile which the landlord testifies was purchased to replace this flooring.

In this instance I find the landlord has not provided sufficient evidence to support his entire claim for damages or loss I find the landlord has not completed a Move in or Move out condition inspection to determine the condition of the rental property at the beginning and end of the tenancy. The landlord claims that the damages were caused by the tenant as the property had been newly renovated at the start of her tenancy; however, the landlord has provided no evidence to support this claim or to show what renovations were made at the start of the tenancy.

Therefore, I find the landlord is entitled to recover \$1,036.29 for the dumpster costs plus \$20.00 for the permit to park the dumpster to a total cost of **\$1,056.29**. I find the landlord has provided sufficient evidence to support his claim for the replacement hot water tank to a total cost of **\$606.85** pursuant to s.67 of the *Act*.

I find from the landlords evidence that the carpet was left in a filthy condition with stains beyond the normal scope of cleaning, however, the carpet was seven years old and new at the start of the tenancy. A carpet generally has a normal life span of 10 years; consequently I have made a deduction of 50% from the landlords' claim of \$4,080.00 and find he is entitled to recover **\$2,040.00** towards the cost of replacing the carpet pursuant to s.67 of the *Act*.

I find the landlord has provided the receipts for the replacement locks and rekeying locks of **\$194.21** pursuant to s.67 of the *Act*.

As the landlord has been largely successful with his claim I find he is entitled to recover the **\$100.00** filing fee from the tenant pursuant to s.72(1) of the *Act*. A Monetary Order has been issued for the following amount:

Unpaid rent	\$8,296.25
Replacement hot water tank	\$606.85
50% of replacement carpet costs	\$2,040.00
Lock replacement and rekeying locks	\$194.21
Filing fee	\$100.00
Total amount due to the landlord	\$12,293.60

Conclusion

I HEREBY FIND in partial favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$12,293.60**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

The remainder of the landlords claim for damages to the rental unit is dismissed without leave to reapply.

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: March 15, 2010.

Dispute Resolution Officer