

DECISION

Dispute Codes:

MNR, MNSD, MNDC, MND, FF

Introduction

This hearing was convened in response to an application by the landlord for:

- A Monetary Order to recover rental arrears, damage to the rental unit, and for money owed or compensation for damage or loss under the Act, Regulation or tenancy agreement.
- An order to retain the security deposit in partial satisfaction of the monetary claims.
- Recovery of the filing fee associated with this application.

The landlord's evidence indicates the tenant was served by registered mail. The landlord provided registered mail receipts and mail tracking information indicating one tenant signed for and received the registered mail. The tenant's spouse was sent the registered mail at the same address and it went unclaimed and was returned to the landlord. I accept that despite the tenant having been served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing.

Issue(s) to be Decided

Is the landlord entitled to the monetary amounts claimed for unpaid rent, damages and loss, or to retain the security deposit?

Background and Evidence

The following is undisputed. The tenancy began on March 1, 2007. Subsidized rent in the amount of \$414 was payable in advance on the first day of each month. At the

outset of the tenancy the landlord collected a security deposit in the amount of \$450 which the landlord retains. The parties mutually conducted a start of tenancy inspection. The landlord's testimony is that the tenant "skipped" sometime before the mutually agreed vacate date of September 30, 2009. On September 02, 2009 the tenant was given a 10 Day Notice to End Tenancy for Unpaid Rent for the month of September 2009. At the end of the tenancy the landlord was unable to conduct a proper end of tenancy inspection along with the tenant but consequently conducted an inspection with a witness on September 29, 2009. As the landlord was not provided with a forwarding address by the tenant, the landlord was unable to forward a copy to the tenant as per the Regulations. The landlord subsequently included a copy of the inspection with the registered mail notifications for the dispute resolution hearing.

The landlord's claim on application is as follows:

| | |
|---|------------------|
| Cleaning of suite – 22.45 hrs. @ \$20/hr. | \$449.00 |
| Cleaning - carpets | \$105.00 |
| Garbage disposal – dump fees | 125.00 |
| Rent – outstanding for September 2009 | \$414.00 |
| Blinds cleaning | \$63.00 |
| Repairs - total | \$360.00 |
| Acrylic Bathtub repair | \$200.00 |
| Painting | \$877.98 |
| Door2 – 2 – material only | \$114.77 |
| Total of landlord's claim on application | \$2708.75 |

The landlord submitted documentation and provided oral evidence in support of all the monetary claims. As well, the landlord provided a quantum of photographs of the suite in support of their claim. The landlord provided all receipts and invoices for all work, materials and labour incurred and claimed as costs borne by the landlord.

Analysis

I have considered all evidence and all submissions to this claim and have considered all testimony given in the hearing.

On the preponderance of the undisputed evidence advanced by the landlord, and on the balance of probabilities I am satisfied the landlord is entitled to unpaid rent for the month of September 2009 in the amount of \$414.

In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. Moreover, the applicant must satisfy each component of the test below:

Test For Damage and Loss Claims

1. Proof the damage or loss exists,
2. Proof the damage or loss were the result, solely, of the actions or neglect of the other party in violation of the *Act* or agreement
3. Verification of the actual amount required to compensate for the claimed loss or to rectify the damage.
4. Proof that the claimant followed section 7(2) of the *Act* by taking reasonable steps to mitigate or minimize the loss or damage.

Therefore, the claimant bears the burden of establishing each claim on the balance of probabilities. The claimant must prove the existence of the damage or loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify *the actual monetary amount of the loss or damage*. Finally, the claimant must show that reasonable steps were taken to address the situation and to reasonably mitigate the damage or losses that were incurred.

I find the landlord has adequately met the test for their claim for damages and loss in respect to all portions of their claim and have established an entitlement in the total amount of **\$2708.75**, as sought.

I find the landlord's application has merit, and the landlord is therefore entitled to recovery of the filing fee from the tenants for the cost of this application in the amount of **\$50** for a total entitlement of **\$2758.75**.

Conclusion

I order that the landlord retain the security deposit and accrued interest totalling **\$463.32** in partial satisfaction of the landlord's entitlement. **I grant** the landlord **an order** under Section 67 of the Residential Tenancy Act for the balance in the mount of amount of **\$2295.43**. If necessary, this order may be filed in the Small Claims Court 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*.