



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 the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord only.

The landlord provided documentary evidence and testimony confirmed that he received the tenant's current residential address from the tenant in the other unit at the residential property who is related to one of these tenants.

The landlord provided confirmation that the tenants were individually served via registered mail on June 10, 2010 with notice of this hearing. The landlord further testified that he had confirmed online by using the registered mail tracking number that the tenants had accepted the registered mail.

Based on the landlord's evidence and testimony, I accept the tenants have been sufficiently served with the notice of this hearing and in accordance with the *Residential Tenancy Act (Act)*.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for damage to the rental unit; for compensation for damage or loss under the Act, regulation or tenancy agreement; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Act*.

Background and Evidence

The landlord provided the following documents into evidence:

- A copy of a tenancy agreement signed by the parties on May 31, 2009 for a month to month tenancy that began on June 1, 2009 for a monthly rent of \$775.00 due on the 1st of the month with a security deposit of \$387.50 paid on May 31, 2009;

- A copy of a Condition Inspection Report that indicates the tenants did not attend the move out inspection and the condition of the rental unit;
- A copy of a typewritten summary of events during the tenancy;
- 36 photographs and picture legend of the condition of the rental unit; and
- A typewritten summary of the landlord's total out of pocket expenses resulting from the damages and the supporting receipts for this amount.

The landlord's full claim is outlined as follows:

Description	Amount
Out of Pocket Repairs and Cleaning costs	\$4,281.41
Aggravated Damages	\$718.59
Total	\$5,000.00

Analysis

To be successful in a claim for compensation for loss or damage resulting from a tenancy the party making the claim must provide sufficient evidence to establish the 4 following points:

1. The loss or damage exists;
2. The loss or damage results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; and
4. The steps taken to mitigate any damage or loss.

Section 37 of the *Act* requires a tenant who vacates a rental unit to leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. From the evidence submitted by the landlord and in the absence of any evidence or testimony from the tenants, I accept the rental unit was left in the condition described by the landlord.

As a result, I find the landlord has established that a loss and damage exist and that that loss and damage result from the tenants' violation of the *Act*.

From the landlord's receipts I find the landlord has established the value of that damage and loss. I also note however, that the landlord testified that he has not been able to afford to repair the carpet in the living area and bedroom or the front window and as such has not included those matters in this application. The landlord remains at liberty to file an additional claim for these items should he repair them in the future.

As the tenant's left without participating in the move out inspection, I find the tenants impeded the landlord's ability to mitigate any of the damage or loss and therefore I find the landlord has established all 4 points noted above.

In relation to aggravated damages, Residential Tenancy Policy Guideline 16 states that “aggravated damages are designed to compensate the person wronged, for aggravation to the injury caused by the wrongdoer’s wilful or reckless indifferent behaviour.

It is clear to me that by taking steps like removing the landlord’s property such as the washer and dryer the tenants were wilfully engaged in a potentially criminal activity in attempting to cause damage to the landlord’s property and therefore find the landlord entitled to aggravated damages.

Conclusion

For the reasons noted above I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$5,050.00** comprised of \$5,000.00 damages and aggravated damages and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$387.50 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$4,662.50**. This order must be served on the tenants and 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 21, 2010.

Dispute Resolution Officer