



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain a Monetary Order for damage to the rental unit and to recover the cost of the filing fee.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*, sent via registered mail on June 16, 2010. Mail receipt numbers were provided by the landlord's agent. The tenants were deemed to be served the hearing documents on June 21, 2010, the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlords' agents appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form. There was no appearance for the tenants, 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 for damage to the rental unit?

Background and Evidence

The landlords' agent testifies that this tenancy started on December 15, 2006. Rent for this unit is \$1,327.00 per month and is due on the first of each month.

The landlords agent has provide documentary evidence to support their claim that the tenants caused a stove fire in the rental unit on February 09, 2010. The fire caused extensive damage to the stove and hood fan as well as the cabinetry and walls. The landlords agent testifies that he had a discussion with the tenants and at first estimated the cost to repair the damage as

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\$600.00 however the cost was higher than originally estimated and the landlord originally requested a Monetary Order to recover the full cost of the damage to the sum of \$1285.00. This amount has now been amended to take into account the depreciation of the stove due to its age.

This cost includes the replacement costs for the stove of \$435.05 and the hood at \$49.75. Additional costs were incurred to rectify the damage which include painting materials of \$75.00 and labour of \$294.00, clean up of the unit at \$315.00 (which had to be paid at an overtime rate due to the time the fire occurred). The landlord also seeks to recover \$116.88 for overhead fees. The landlord states as the stove was three years old they are happy to reduce the cost for the stove to take in depreciation. The total amount now claimed by the landlord is \$1,129.89.

The landlord has provided the following evidence to support his application:

Photographs of the damage

Invoices of work done to repair damage

Letters between the landlord and tenant

An investigation report and incident report from the fire service

The tenancy agreement

Analysis

I have carefully considered all the evidence before me; I refer the tenants to section 32(3) of the *Residential Tenancy Act* which states:

A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

In this instance the burden of proof is on the claimant to prove the existence of the damage or loss and that it stemmed directly from a violation of the agreement or contravention of the *Act* on the part of the respondent. Once that has been established, the claimant must then provide



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evidence that can verify the actual monetary amount of the loss or damage. Finally it must be proven that the claimant did everything possible to address the situation and to mitigate the damage or losses that were incurred.

I find the landlord has met the burden of proof in this matter and consequently has established his claim for a Monetary Order for damage to the rental unit to the sum of **\$1,129.89**.

As the landlord has been successful in this matter he is also entitled to recover his **\$50.00** filing fee from the tenants.

Conclusion

I HEREBY FIND in favor of the landlord's amended monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,179.89**. The order must be served on the respondents and is enforceable through the Provincial Court 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 29, 2010.

Dispute Resolution Officer