

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' pet damage and security deposits in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the landlord's filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. She testified that a 10 Day Notice to End Tenancy for Unpaid Rent was posted on the tenants' door on June 4, 2010. She testified that the landlord sent the tenants two copies of the landlord's application for dispute resolution hearing package to the tenants' last known address by registered mail on October 14, 2010. She provided written copies of the Canada Post Tracking Numbers to confirm this mailing. She said that both copies were not picked up by the tenants. I am satisfied that the landlord has served the application for dispute resolution to the tenants in accordance with the *Act*.

At the hearing, the landlord said that an error was made in the original application for dispute resolution. She said that the landlord had mistakenly applied for an Order of Possession for unpaid rent, even though the tenants had vacated the rental unit before July 15, 2010. I agreed to her request to remove the application for an Order of Possession from this application.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and money owed by the tenants? Is the landlord entitled to a monetary award for compensation for damage or loss arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenants' pet damage and security deposits in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fees for this application?

Background and Evidence

This tenancy first commenced on May 7, 2009. By May 7, 2010, the tenants were occupying the premises on the basis of a one-year fixed term tenancy agreement. Monthly rent as of May 2010 was set at \$1,027.00 for this most recent period. The landlord continues to hold the tenants' \$497.50 security deposit and \$200.00 pet damage deposit, both paid on June 29, 2009.

The landlord provided a copy of the signed residential tenancy agreement, which included provisions for:

- the imposition of a \$25.00 fee for NSF cheques;
- the tenants assuming responsibility for any rental loss suffered by the landlord as a result of the tenants' early termination of a lease;
- a placement fee of 50% of the monthly rent if the tenants ended the tenancy early; and
- a requirement that the tenants have the carpets professionally cleaned at the end of their tenancy.

The landlord also provided copies of the joint move-in condition inspection report of May 7, 2009, signed by one of the tenants. The landlord testified that the tenants did not participate in the move-out condition inspection on June 24, 2010, as the tenants had vacated the premises by then. The landlord prepared a move-out condition inspection report and sent the tenants a copy of this report in advance of this hearing. She testified that the premises required cleaning at the end of the tenancy and that a new key fob was required at the end of this tenancy.

The landlord requested a monetary award for unpaid rent, losses and damage, to be recovered partially by retention of the tenants' pet damage and security deposits:

Item	Amount
March 2010 NSF Fee	\$25.00
Unpaid May 2010 Rent	27.00
May 2010 NSF Fee	25.00
Unpaid June 2010 Rent	1,027.00
Loss of Rent for July 2010 (July 1-14)	463.68
Early Termination Placement Fee	575.12
Cleaning	52.25
Professional Carpet Cleaning	99.68
Replacement of Key Fob	80.00
Recovery of Filing Fee for this application	50.00
Total Monetary Award Requested	\$2,424.73

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, a Dispute Resolution Officer may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/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.

Based on the undisputed evidence presented by the landlord, I am satisfied that the landlord has experienced rental and other losses as a result of this tenancy that are the responsibility of the tenants. I allow the landlord's application for a monetary award with the following exceptions which coincide with the receipts and invoices submitted by the landlord. According to the landlord's evidence, the tenants paid \$5.00 towards the March 2010 NSF Cheque fee and for that reason I reduce the monetary award for this item from \$25.00 to \$20.00. The receipt for cleaning submitted by the landlord was for \$56.25 and not \$52.25 as identified in the landlord's application. I allow a monetary award of \$56.25 for this item.

I grant a monetary award in the landlord's favour of 2,373.73. I also allow the landlord to recover the \$50.00 filing fee for this application from the tenants. I authorize the landlord to retain the tenants' pet damage and security deposits of \$697.50 (plus interest) in partial satisfaction of the monetary award. No interest is payable.

Conclusion

I grant a monetary Order of \$1,726.23 in the following terms to the landlord.

Item	Amount
March 2010 NSF Fee	\$20.00
Unpaid May 2010 Rent	27.00
May 2010 NSF Fee	25.00
Unpaid June 2010 Rent	1,027.00
Loss of Rent for July 2010 (July 1-14)	463.68
Early Termination Placement Fee	575.12
Cleaning	56.25
Professional Carpet Cleaning	99.68
Replacement of Key Fob	80.00
Less Pet Damage and Security Deposits	-697.50
Recovery of Filing Fee for this application	50.00
Total Monetary Award Requested	\$1,726.23

Through this monetary Order, I allow the landlord a monetary award for unpaid rent, losses and damage incurred during this tenancy, to recover his filing fee from the tenants, and to retain the tenant's pet damage and security deposits.

The landlord is provided with these Orders in the above terms and the tenant(s) must be served with a copy of these Orders as soon as possible. Should the tenant(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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*.