

DECISION

Dispute Codes MND, 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, for damage to the rental unit, 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' security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover their filing fee for this application from the tenants pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that she posted a 10 Day Notice to End Tenancy for Unpaid Rent on the tenants' door on July 9, 2010. The tenant testified that this notice was posted on his door a number of times, and as early as July 3, 2010. The landlord testified that she sent the tenants a copy of her dispute resolution hearing package on July 21, 2010 by registered mail. The tenant confirmed having received the landlords' hearing package. I am satisfied that the landlord served the dispute resolution hearing package to the tenants in accordance with the *Act*.

Issues(s) to be Decided

Are the landlords entitled to a monetary award for unpaid rent and/or loss arising out of this tenancy? Are the landlords entitled to a monetary award for damage to the rental unit? Are the landlords entitled to retain all or a portion of the tenants' security deposit to partially satisfy the monetary award requested? Are the landlords entitled to recover their filing fee for this application from the tenants?

Background and Evidence

This periodic tenancy was scheduled to commence on June 1, 2010, although the landlords allowed the tenants to move in before the formal commencement of their tenancy. Monthly rent of \$1,200.00 was payable on the first of the month. The landlord said that she continues to hold the tenants' \$600.00 security deposit.

The landlord said that she issued the 10 Day Notice to End Tenancy for Unpaid Rent when the tenants did not pay their July 2010 rent. Both parties agreed that the tenant paid no portion of their July 2010 rent. The tenant testified that he offered to pay \$600.00 to the landlords which they could add to the security deposit so that the tenants could remain in the rental unit until the end of July 2010. The tenant testified that the landlords rejected this offer. The tenant maintained that he vacated the rental unit on July 12, 2010. The landlord testified that the tenants did not provide vacant possession of the rental unit to the landlords until July 15, 2010.

The landlord applied for a monetary award for the following items:

Item	Amount
Unpaid July 2010 Rent	\$1,200.00
Tenants' Wrongful Removal and Continued Possession of Microwave and Lamp	200.00
Tenants' Damage to Fence	35.00
Cleaning	150.00
Recovery of Filing Fee for this application	50.00
Total Monetary Award Requested	\$1,635.00

The landlord also applied for authorization to retain the tenants' security deposit in partial satisfaction of the monetary award.

The landlord testified that there was no joint move-in or joint move-out condition inspection of the premises. She said that she did not schedule these inspections with the tenants, nor did she prepare a condition inspection report without the tenants.

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. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

Based on the oral testimony of both parties, I find that the tenants did not pay their July 2010 rent owing. As such, I allow the landlord's application for a monetary award of \$1,200.00 for unpaid rent for July 2010.

The landlords submitted no evidence of move-in or move-out inspections, condition inspection reports, photographic evidence of the state of the premises before and after this tenancy, or any bills, estimates or invoices for any work done to repair the rental unit as a result of this tenancy. The landlord testified that the landlords have been upgrading the condition of this rental unit following this tenancy. It is difficult to distinguish between costs resulting from this tenancy and costs associated with the upgrading of the rental unit. I find that the landlord has not met the burden of proof required to allow her claim for damage or loss arising out of this tenancy so I dismiss her claim for these items.

I allow the landlords to retain the tenants' security deposit plus interest in partial satisfaction of this monetary award. No interest is payable over this period. I allow the landlords to recover their filing fee for this application from the tenants.

Conclusion

I issue a monetary award in the amount of \$650 on the basis of the following calculations:

Item	Amount
Unpaid July 2010 Rent	\$1,200.00
Less Security Deposit	-600.00
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$650.00

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant 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*.