

## **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 tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant 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. The landlord testified that she sent the tenant a copy of the dispute resolution hearing package by registered mail on October 15, 2010. She provided a Canada Post Tracking Number to confirm this mailing, noting that it was returned as unclaimed. I am satisfied that the landlord served the tenant with this package in accordance with the *Act*.

### Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Is the landlord entitled to retain the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover her filing fee for this application from the tenant?

### Background and Evidence

The landlord said that the tenant first moved into this rental unit with her husband on the basis of a one-year fixed term tenancy commencing on January 1, 2007. She signed a new residential tenancy agreement to continue her occupancy of the rental unit without her husband on a periodic tenancy commencing June 20, 2009. Monthly rent at the end of this tenancy was \$1,123.00 plus a monthly parking charge of \$35.00. The landlord said that the tenant vacated the rental premises by August 31, 2010, without paying any portion of her August 2010 rent.

The landlord applied for a monetary award of \$1,308.01. This amount included \$1,158.00 in unpaid rent for August 2010, two \$25.00 NSF cheque fees, a \$25.00 late fee, \$140.00 for suite cleaning, \$85.00 for carpet cleaning, \$194.40 for window cover cleaning, and \$250.00 for repainting. The landlord also applied for the recovery of his \$50.00 filing fee for this application.

The landlord entered into written evidence a copy of the January 1, 2007 joint move-in condition inspection report and the September 1, 2010 joint move-out condition inspection report. In that report, the tenant signed a Security Deposit Statement indicating that she had acquired a total credit of \$644.39 on the basis of \$552.50 for the security deposit, \$75.00 for key deposit, and \$16.89 in accrued interest. This Statement also included her agreement for the following deductions to be applied against the total credit held by the landlord.

Item	Amount
Total Credit from Security Deposit, Key Deposit and Interest	-\$644.39
Unpaid August 2010 Rent & Late Fees	1,233.00
Suite Cleaning	140.00
Carpet Cleaning	85.00
Window Cover Cleaning	194.40
Painting	250.00
<b>Total Balance Due on Security Deposit Statement</b>	<b>\$1,258.01</b>

The condition inspection report noted that some of the rooms needed cleaning and painting. The landlord explained that during this tenancy the tenant had painted some of the walls orange, red and yellow, which needed to be repainted a neutral colour.

### 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 oral and written evidence of the landlord, I find that the landlord is entitled to a monetary award of \$1,902.40 for unpaid rent and losses arising out of this tenancy. I accept the landlord's undisputed evidence that the tenant gave her written agreement to the costs identified in the Security Deposit Statement.

I allow the landlord to retain \$644.39 in total security and key deposits plus interest in partial satisfaction of the monetary award. Since the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee from the tenant.

Conclusion

I issue a monetary Order in the landlord's favour in the amount of **\$1,308.01**. This monetary Order allows the landlord to recover unpaid rent, losses arising out of this tenancy, the filing fee for this application, and to retain the tenant's security deposit.

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*.