



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, 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 damage to the unit 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, although I waited until 11:24 a.m. in order to enable the tenant to connect with this hearing. The landlord's agent (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 posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on the tenant's door on November 3, 2010. The landlord testified that she sent the tenant a copy of her dispute resolution hearing package by registered mail on December 20, 2010. She provided the Canada Post Tracking Number to confirm this mailing. She testified that she checked with Canada Post and confirmed that the tenant received her package on December 21, 2010. I am satisfied that the landlord served her hearing package and her evidence package in accordance with the *Act*.

Issues(s) to be Decided

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

Background and Evidence

The landlord entered written evidence that there have been a series of fixed term tenancies with this tenant commencing on March 1, 2010. The most recent fixed term was from September 1, 2010 until November 30, 2010. At the end of that term, the tenant vacated the rental unit and gave vacant possession of the rental unit to the

landlord by November 29, 2010. Monthly rent during this tenancy was set at \$550.00, payable in advance on the first of the month. The landlord continues to hold the tenant's \$275.00 security deposit paid on February 4, 2010.

The landlord said that she issued the tenant the Notice because the tenant did not pay any portion of her \$550.00 November 2010 rent. In the landlord's application for a monetary award of \$1,885.00, the landlord included the still unpaid November rent plus a \$25.00 late fee as set out in the Residential Tenancy Agreement. The landlord entered into written evidence a detailed breakdown of "Suite Cleaning" (i.e., \$125.00), "Specific Cleaning" (i.e., \$380.00) and "All Other Charges" totalling \$1,380.00. The landlord entered into written evidence a detailed breakdown of a Security Deposit Statement in which each of the items listed in the overall application for a monetary award of \$1,885.00 were itemized.

Although the landlord did not provide written receipts for repairs, supplies or services provided, she did enter into written evidence a copy of an Addendum to the Residential Tenancy Agreement that identified specific charges for a series of items if the premises were not left in clean condition. The landlord also entered into evidence photographs of the condition of the rental unit on November 29, 2010 immediately after the tenant vacated the rental unit.

The landlord entered into written evidence a copy of the joint move-in condition inspection report that outlined the condition of the rental unit on February 18, 2010. She testified that she tried four times to arrange a viewing time with the tenant for a joint move-out condition inspection. Each time, the landlord said that the tenant told her that she would meet with her at some future time and date but told her each time that she could not meet with her. The landlord said that she conducted her own move-out condition inspection when the tenant continued to put her off in her attempts to inspect the rental unit together. She said that she sent the tenant a copy of that November 29, 2010 inspection on December 20, 2010.

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.

I find that the landlord is entitled to a monetary award of \$550.00 for unpaid rent for November 2010 and a \$25.00 late fee for that month.

I accept the landlord's undisputed evidence from the joint move-in condition inspection report and the landlord's move-out condition inspection report that the tenant did not leave the rental unit in the same condition that it was in when she commenced this tenancy. I also accept the landlord's evidence that the rental unit was in near new condition when this tenancy started. While I accept the landlord's evidence that cleaning was necessary at the end of this tenancy, the landlord's failure to provide any receipts or invoices for repairs conducted, supplies purchased or services provided reduces the landlord's claim for a monetary award.

I allow the landlord 10 hours of cleaning at a rate of \$20.00 per hour for a monetary award for cleaning of \$200.00. Of the remainder of "All Other Charges" listed in the landlord's written evidence, I allow the following:

Item	Amount
Painting	\$200.00
Carpets	110.00
Curtains	85.00

I disallow the landlord's overall claim for "All Other Charges" as I find that these involved repairs or replacement of items that one would expect were likely to have generated receipts or invoices (e.g., closet door repairs, flea treatment, smoke detector replacement, fridge repairs, kitchen drawer repairs). The landlord said that many of these items are billed directly to her company's head office. Based on the evidence submitted, the landlord has not supplied sufficient evidence of the actual costs incurred to verify the actual monetary amount of the loss or damage for the remainder of these items. However, as I do accept from the photographic and written evidence that some of these items were damaged during this tenancy, I allow the landlord an additional \$100.00 to partially cover the expenses likely incurred to repair items broken by the tenant during this tenancy.

I allow the landlord to retain the tenant's security deposit plus interest in partial satisfaction of the monetary award issued. No interest is payable over this period.

Since the landlord has been successful in this application, I allow the landlord to recover the filing fee for this application from the tenant.

Conclusion

I issue a monetary award in the landlord's favour in the following terms which allows the landlord to recover unpaid rent and damage arising out of this tenancy and the filing fee for the landlord's application.

Item	Amount
Unpaid November 2010 Rent	\$550.00
November Late Fee	25.00
Suite Cleaning	200.00
Painting	200.00
Carpets	110.00
Curtains	85.00
Repairs	100.00
Less Security Deposit	-275.00
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$1,045.00

This award also allows the landlord 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*.