



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

This conference call hearing was convened in response to the landlord's application for a Monetary Order for unpaid rent and damage to the rental unit; to keep the security and pet damage deposit; and to recover the filing fee associated with this application.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to keep all or part of the security deposit?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of a four bedroom townhouse in a subsidized rental complex. Pursuant to a written agreement, the month to month tenancy started on July 1st, 2005. The rent was \$980.00 per month and the tenant paid a security deposit of \$490.00, and a pet damage deposit of \$25.00. Condition inspection reports were completed at the start and the end of the tenancy.

The landlord testified that the tenant was served a Notice to End Tenancy on July 5th, 2010 and that she subsequently made an application for dispute resolution; she stated that a hearing was held on July 27th, 2010, that the tenant did not appear, and that she was granted an order of possession. The landlord said that she learned soon after that the tenant abandoned the unit on July 12th, 2010, and that the tenant made no attempts to contact her at any time.

In her documentary evidence, the landlord provided 30 photographs taken after the tenant moved out, showing damages and a unit left in an abysmal condition, specifically; holes in the walls; toppled furniture, ripped shelves and racks, an excessive amount of personal and hygiene items, garbage and debris strewn throughout, indicative that the unit was nowhere kept in a reasonable state of cleanliness. The landlord also recorded the damages on the move-out inspection report, however the landlord stated that the tenant abandoned the suite and therefore was not present for that inspection. The landlord provided receipts to replace or repair items in the unit for the following claim;

- Garbage removal:	\$1668.80
- Cleaning:	\$ 165.00
- Wall repair & cleaning:	\$ 772.80
- Door repairs:	\$1086.40
- Replace 3 smoke alarms:	\$ 45.00
- Replace 4 light bulbs:	\$ 8.00
- Replace 5 light covers:	\$ 50.00
- Washroom light bulbs:	\$ 24.00
- Hood fan:	\$ 59.35
- Pest control for fleas:	\$ 133.50
- Bug spray:	\$ 10.00
- Sub-total:	\$4022.85

In addition, the landlord is claiming unpaid rent as follows:

- Unpaid rent for April 2010: \$ 490.00
- Late fee: \$ 25.00
- Unpaid rent for May 2010: \$ 980.00
- Late fee: \$ 25.00
- Unpaid rent for June 2010: \$ 980.00
- Late fee: \$ 25.00
- Unpaid rent for July 2010: \$ 980.00
- Sub-Total: \$3505.00
- Total claim: \$7527.85

The tenant argued that she did not abandon the unit; she stated that she received a Notice to End Tenancy on July 5th, 2010 and therefore she moved out according to the notice and that she had no opportunity to clean the unit. She said that she left on a Friday and returned on the following Monday to clean, however the unit's locks were changed and she could not get inside. She said that she left messages with the landlord, but the landlord did not return any of her calls.

The tenant stated that she received the landlord's notice to a hearing, but that she did not receive the package of evidence. The landlord stated that she sent the evidence by regular mail at the same address as the notice for dispute resolution.

The tenant stated that the unit had a pre-existing leak that caused water damage on the floor; the landlord clarified that this damage was not part of the claim. The landlord said that she did not receive any messages or indication that the tenant made any attempts to contact her after she moved out.

Analysis

I have reviewed the documents submitted and considered the parties' testimony during the hearing. The landlord's evidence was clear, concise, and accurate in terms of dates, times, and compliance with the Act. The tenant provided no documentary evidence and her testimony was vague and non-specific. For instance, she could not provide the exact date when she moved out, except that it was on a Friday; she could not specify what, when, and how many times she did in fact attempt to contact the landlord who, I heard during the hearing, is a resident landlord. The tenant received the landlord's notice of a dispute resolution hearing. Absent credible reason why the tenant did not receive the subsequent package of evidence, I find that the tenant was served properly in accordance with the Act and I accept the evidence provided at the hearing.

The tenant did not question the landlord concerning any details of the claim, nor did she dispute the unpaid rent. Section 37 of the *Residential Tenancy Act* provides in part that upon vacating a rental unit, the tenant must leave the unit reasonably clean and undamaged, except for reasonable wear and tear. I find the tenant's statement that she returned to the unit questionable; first, I am not convinced that she could not have found or made contact with the landlord; second, she could have cleaned the unit upon receipt of the notice to end tenancy since she was not going to pay the rent; third, it would have taken her more than two days to clean, repair, and bring the unit back to a rentable condition and lastly, the tenant's testimony appears vague and contradictory when on one hand she claims that she left because of a notice to end tenancy, and on the other hand states that she came back to move out and clean the unit.

Based on the landlord's testimony and the evidentiary material, I am satisfied that the tenant caused damage beyond reasonable wear and tear; I am not satisfied on a balance of probabilities that the tenant was going to clean, and that she would have made, or could have afforded, all the repairs that were required. I also note the passage of time since the tenant's departure, and I am satisfied that the tenant did not make reasonable attempts to contact the landlord, within the last year, in order to resolve this matter before the hearing. I find that the landlord is entitled to recover the cost of repairs and unpaid rent as claimed.

Conclusion

The landlord established a claim of \$7527.85. I authorize the landlord to retain the tenant's \$490.00 security deposit, \$25.00 pet damage deposit plus interest for a balance owing of \$6994.59. Since the landlord was successful, I award the landlord recovery of the \$100.00 filing fee. Pursuant to Section 67 of the Act, I grant the landlord a Monetary Order totalling \$7094.59.

This Order may be registered in the Small Claims Court and enforced 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: August 25, 2011.

Residential Tenancy Branch