



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNR, MNSD, O, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for monetary orders for compensation under the Act and the tenancy agreement, for unpaid rent, for damage to the rental unit, to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

The Landlord appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified and provided confirmation that she served the Tenant with the Notice of Hearing and Application for Dispute Resolution by registered mail, sent on July 14, 2011. Under the Act the Tenant is deemed served five days later.

Furthermore, the Landlord provided confirmation that the Tenant had signed for the registered mail. Despite this the Tenant did not appear at the hearing. I find the Tenant has been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the Landlord entitled to monetary compensation from the Tenant?

Background and Evidence

On October 1, 2010, the Landlord and Tenant entered into a written, one year term tenancy agreement, to end on September 30, 2011. The monthly rent was \$1,950.00, payable on the first day of the month, and the Tenant paid the Landlord a security deposit of \$975.00 and a pet damage deposit of \$975.00 on or before October 1, 2010. The tenancy agreement also contained a liquidated damages clause, requiring a payment of \$500.00 for early termination of the tenancy agreement by the Tenant.

On or about May 27, 2011, the Tenant wrote the Landlord with a notice she was ending the tenancy on June 30, or July 1, 2011.

The Tenant vacated the property and an outgoing condition inspection report was performed on June 30, 2011. In the outgoing report the Tenant signed an acknowledgement that she was responsible for the cost of replacing keys, the cost of a broken window blind, for energy efficient light bulbs not replaced by the Tenant, for gardening costs, for July rent if not rented, a central vacuum cleaner bag, and for the liquidated damages. The Tenant agreed that the Landlord could deduct \$500.00 from her security deposit, however, the Landlord is claiming for an amount greater than this and for a hydro bill not paid by the Tenant.

Following the notice to end tenancy given by the Tenant, the Landlord advertised the rental unit and was able to find a new renter for the middle of July 2011.

Therefore, the Landlord is claiming \$975.00 for a half month of rent, the liquidated damage clause amount of \$500.00, \$24.70 for a hydro bill, \$28.88 for a central vacuum cleaner bag, \$113.53 for re-keying the locks and making replacement keys, \$38.04 for a new window blind, \$50.00 for gardening and \$50.00 for the filing fee for the Application.

The Landlord had also claimed for the cost of registered mail.

In support of the claims the Landlord provided documentary evidence, including but not limited to, the condition inspection report and tenancy agreement, receipts and invoices, and photographs.

Analysis

Based on the above, the uncontradicted testimony and evidence, and a balance of probabilities, I find that the Tenant has breached section 45 of the Act by breaking the fixed term tenancy agreement. I further find the Tenant breached section 37 of the Act by not leaving the rental unit undamaged.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find the breaches by the Tenant have caused the Landlord to suffer a loss.

I find that the Landlord has established a monetary claim of \$1,794.69, comprised of \$975.00 for a half month of rent, liquidated damages of \$500.00, \$24.70 for a hydro bill, \$28.88 for a vacuum cleaner bag, \$113.53 for locks and keys, \$38.04 for a window blind, \$50.00 for gardening and \$50.00 for the filing fee for the Application.

As it is a cost of preparing for the Application, I do not allow the Landlord the cost of registered mail.

Pursuant to section 72 of the Act, I order that the Landlord may retain **\$1,794.69** from the deposits held of **\$1,950.00** in full satisfaction of the claim and I order the Landlord under section 67, to return to the Tenant the balance due of **\$155.31**.

Pursuant to the policy guidelines, I grant and issue the Tenant a monetary order in that amount. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: October 26, 2011.

Residential Tenancy Branch