



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR MNSD MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a Monetary Order for damage to the unit, site, or property, for unpaid rent, to keep all or part of the security deposit, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of the filing fee from the Tenant for this application.

Service of the hearing documents, by the Landlord to the Tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on September 16, 2011. Mail receipt numbers were provided in the Landlord's evidence. Based on the submission of the Landlord I find the Tenant was sufficiently served notice of this proceeding.

The Landlord appeared at the teleconference hearing, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. No one appeared on behalf of the Tenant despite her being served notice of this hearing in accordance with the *Act*.

Issue(s) to be Decided

1. Has the Tenant breached the *Residential Tenancy Act*, regulation and or tenancy agreement?
2. If so, has the Landlord met the burden of proof to obtain a Monetary Order as a result of that breach, pursuant to section 67 of the *Residential Tenancy Act*?

Background and Evidence

The parties entered into a month to month tenancy that began on June 1, 2011. Rent was payable on the first of each month in the amount of \$720.00 and on May 18, 2010 the Tenant paid \$352.50 as the security deposit. A move in inspection report form was completed June 1, 2010 and the move out inspection and report form were completed on September 3, 2011.

The Landlord affirmed the Tenant was served an Order of Possession on August 30,

2011 and vacated the property in accordance with that order on September 3, 2011. The Tenant short paid her August rent leaving a balance due of \$15.00 for which the Landlord is seeking to recover.

The Landlord advised that the rental unit had been used for the Tenant and her guests to take drugs. The unit was left with blood splatters on the ceiling and walls, as supported by their photographic evidence; and needles stuck inside the carpet, the carpet soiled to the point it could not be cleaned, and the rest of the unit very dirty requiring hospital grade disinfectants to clean it. They are seeking \$240.00 for the cost of labour to clean the unit over a period of three days, September 22, 24, and 30th, 2011.

The Landlord stated that they had tried to mitigate their loss by having the carpets treated and cleaned as she suspects they will not be able to collect on the monetary order. She advised these carpets were new back in 2005 and unfortunately had to be replaced as their attempts to bring them back to a useful state did not work. She pointed to the comments listed on the cleaning invoice that she had provided in her evidence as well as the photographs provided in evidence. They are seeking recovery of the cost to clean the carpets at \$182.56 plus the cost to replace them at \$1,355.31 as their attempts to mitigate their loss by cleaning the carpets did not work and they ended up having to purchase new carpet.

The Landlord stated that the building manager found keys to this apartment hidden in various areas of the building. They believe these keys were left for those guests who wanted to attend the unit to use drugs so they could access the unit any time they needed to. They are not certain they have retrieved all the copies of keys that were made for this unit so in order to secure the unit for the next tenant the Landlord felt they needed to have the lock changed and are seeking to recover the \$78.57 it took to rekey the lock.

Analysis

Given the evidence before me, in the absence of any evidence from the Tenant who did not appear despite being properly served with notice of this proceeding, I accept the version of events as discussed by the Landlord and corroborated by evidence which included, among other things, a copy of the condition inspection report, photographs of the rental unit, and receipts in support of the amount paid to repair and clean this rental unit.

A party who makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided for in sections 7 and 67 of the *Residential Tenancy Act*. Accordingly an applicant must prove the following when seeking such awards:

1. The other party violated the Act, regulation, or tenancy agreement; and
2. The violation caused the applicant to incur damage(s) and/or loss(es) as a result of the violation; and
3. The value of the loss; and
4. The party making the application did whatever was reasonable to minimize the damage or loss.

Awards for damages are intended to be restorative, meaning the award should place the applicant in the same financial position had the damage not occurred. Where an item has a limited useful life, it is necessary to reduce the replacement cost by the depreciation of the original item. In order to estimate depreciation of the replaced item, I have referred to the normal useful life of items as provided in *Residential Tenancy Policy Guideline 37*.

Section 32(2) of the Act provides that a tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

Section 37(2) of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean and undamaged and return **all** the keys.

After careful consideration of the evidence before me I find the Landlord has met the burden of proof for damage or loss and I award the Landlord a monetary claim of **\$1,058.25** as follows:

- \$15.00 unpaid rent for August 2011
- \$240.00 cleaning
- \$78.57 for rekeying the lock
- \$182.56 carpet cleaning
- \$542.12 depreciated value for the carpet replacement as the normal useful life of carpet is 10 years and the existing carpet was six years old (\$1,355.31 x 4/10)

The Landlord has been primarily successful with her application; therefore I award recovery of the **\$50.00** filing fee.

Monetary Order – I find that the Landlord is entitled to a monetary claim and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenant's security deposit plus interest as follows:

Damage and loss	\$1,058.25
Filing Fee	<u>50.00</u>
SUBTOTAL	\$1,108.25
LESS: Security Deposit \$352.50 + Interest 0.00	<u>-352.50</u>
Offset amount due to the Landlord	<u>\$ 755.75</u>

Conclusion

The Landlord's decision will be accompanied by a Monetary Order in the amount of **\$755.75**.

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: December 09, 2011.

Residential Tenancy Branch