



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 was an application by the landlord for a monetary order for damage to the rental unit, unpaid utilities, and to keep the security deposit in partial satisfaction of their claims.

Both parties participated in the hearing with their submissions, document evidence and testimony during the hearing. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

Issue(s) to be Decided

Is the landlord entitled to a monetary order in the amount claimed?

Background and Evidence

The undisputed relevant testimony in this matter is that the tenancy started March 01, 2011 and ended June 30, 2011. At the start of the tenancy the landlord collected a security deposit in the amount of \$425, which the landlord retains. I do not have benefit of the purported tenancy agreement between the parties; however, the parties agree that utilities were to be the responsibility of the tenant. At the end of the tenancy the parties claim they conducted a mutual inspection, but did not arrive at agreement as to how they would administer the deposit at the end of the tenancy. I do not have benefit of the inspection report, but both parties agree that at the end of the tenancy there was outstanding utility costs and that “some” cleaning of the rental unit was required.

The parties discussed the utilities portion of the landlord’s claim and agreed that the final amount of the utilities owed by the tenant is \$309.74, for which the landlord provided evidence. The landlord claims that the rental unit was left 85% unclean – claiming 21

hrs. at \$20 per hour (\$420). The tenant claims the rental unit was left 50% unclean – claiming that a reasonable amount would have been 5 hrs. at 9.00 per hour (\$45). The landlord provided evidence that they paid \$200 to a third party for 7 hours of labour to clean the rental unit.

The landlord also claims the tenant owes \$100 for purportedly breaking the dryer timer unit during the tenancy. The tenant claims that they originally agreed with the landlord to pay \$100 to repair the dryer, but that despite her early thinking the dryer was made usable without the required repairs. The landlord claims that the dryer has since been replaced, and that the original dryer was not repaired.

Analysis

Under the *Act*, the party claiming the damage or loss bears the burden of proof. Moreover, the applicant must satisfy each component of the following test:

1. Proof the damage or loss exists,
2. Proof the damage or loss were the result, *solely, of the actions or neglect of the other party (the tenant)* in violation of the *Act* or agreement
3. Verification of the actual amount required to compensate for the claimed loss or rectify the damage.
4. Proof that the claimant followed section 7(2) of the *Act* by taking reasonable steps to mitigate or minimize the loss or damage.

In addition, when a claim is made by the landlord for damage or loss related to property, the normal measure of damage is the cost of repairs or replacement. The onus is on the tenant to show that the expenditure is unreasonable.

Therefore, in this matter, the landlord bears the burden of establishing their claim on the balance of probabilities. The claimant must prove the existence of the damage or 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. Finally, the claimant must show that reasonable steps were taken to address the situation and to mitigate the damage or losses that were incurred.

The landlord relies on their determination that the tenant left the unit unclean and the tenant agrees. The landlord provided evidence they paid \$200 for cleaning. Therefore, I grant the landlord a total of **\$200** for cleaning, without leave to reapply.

The landlord has not provided evidence in respect to the dryer damage; however, the tenant agrees they damaged the dryer. None the less, the landlord bears the burden of proof for their claim and they have not provided proof they paid for repairs or replacement of the dryer. As a result, **I dismiss** this portion of the landlord's claim without leave to reapply.

The landlord provided evidence that at the end of the tenancy the tenant owes the landlord final utilities costs of **\$309.74**, therefore, I grant this amount, without leave to reapply.

The landlord is entitled to recovery of the **\$50** filing fee, for a total entitlement of **\$559.74**. The security deposit will be off-set from the award made herein.

Calculation for Monetary Order

Final utilities	\$309.74
Filing Fees for the cost of this application	50.00
Less Security Deposit and applicable interest <i>to date</i>	-425.00
Total Monetary Award	\$134.74

Conclusion

I order that the landlord retain the security deposit of \$425 in partial satisfaction of the claim and I grant the landlord an order under Section 67 of the Act for the balance due of **\$134.74**. If necessary, this order may be filed 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: January 23, 2012.

Residential Tenancy Branch