



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to an application made by the landlord for a monetary order for damage to the unit, site or property; for an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of this application.

An agent for the landlord company attended the conference call hearing, gave affirmed testimony and provided evidence in advance of the hearing. However, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing by registered mail on September 14, 2011, the tenant did not attend. The landlord's agent provided a copy of the Canada Post receipt and registered mail receipt as evidence of such service, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*. All evidence and the testimony provided have been reviewed and are considered in this Decision.

Issue(s) to be Decided

- Is the landlord entitled to a monetary order for damage to the unit, site or property?
- Is the landlord entitled to keep all or part of the pet damage deposit or security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord's agent testified that this fixed term tenancy began on April 1, 2010 and expired on March 31, 2011 and then reverted to a month-to-month tenancy. The tenancy ultimately ended by mutual agreement by the parties on August 31, 2011. Rent in the amount of \$1,200.00 per month was payable in advance on the 1st day of each month and there are no rental arrears. On March 12, 2010 the landlord collected a security deposit from the tenant in the amount of \$600.00 and there was no pet damage deposit collected.

The landlord's agent further testified that on August 31, 2011 the agent met with the tenant at the rental unit and the tenant wasn't finished moving or cleaning. The agent provided the tenant with instructions about cleaning. The tenant had an appointment for work up north, and the agent gave the tenant a final opportunity to schedule a move-out condition inspection report; the parties agreed to September 7, 2011 at 11:30 a.m. and the tenant initialled the document. The agent then copied the form and posted it to the door of the rental unit. The agent attended there again on September 7, 2011, but the tenant did not show up.

The landlord claims \$830.64 for re-painting the rental unit, repairing chipped window sills, cleaning grease marks on the balcony, and for cleaning oil stains in the driveway. The landlord also claims \$211.68 for general cleaning, and provided invoices for those services. The agent testified that the tenant left food in the fridge and did not clean the rental unit except for shampooing the carpets. The agent also stated that the landlord was required to pay a fine to the strata for a parking infraction of the tenant in the amount of \$50.00. The claim amounts to \$1,142.00, although the landlord's application contains a claim of \$990.64, but the agent stated that the amount on the application was an estimate prior to obtaining the true cost.

The landlord also provided a copy of the move-in/move-out condition inspection report as well as photographs of the rental unit that the agent testified were taken after the tenant had departed. The photographs and the inspection reports depict a rental unit that has not been cleaned and appear to be somewhat abandoned with food in the fridge and freezer. However, the landlord has also provided a monetary order worksheet that claims that the \$50.00 fine is for an oil spill, not for a parking infraction. The landlord also provided a statement from the strata showing an amount due of \$50.00 but the document does not say what it's for. Also provided are 2 complaint notices from the strata, one for parking and one for oil stains, but both notices state in bold writing that the notices are NOT a decision to levy a fine. Also, the move-out condition inspection report shows a forwarding address for the tenant, but no date of when it was provided.

The landlord also claims recovery of the cost of serving the tenant with the application, notice of hearing and evidence in the amount of \$11.38.

Analysis

The *Residential Tenancy Act* states that a tenant must leave a rental unit reasonably clean and undamaged except for normal wear and tear at the end of a tenancy. In the

circumstances, I find that the tenant has not left the rental unit reasonably clean, and I find that the landlord's claim for cleaning in the amount of \$211.68 is justified.

I further find that the move-in/move-out condition inspection reports, when compared to the photographs, provide evidence of the rental unit requiring painting and repair to chips in the window sills, and I find that the landlord has established a claim for that service in the amount of \$830.64.

With respect to the strata fine, I find that the landlord has failed to establish what the fine was for, or that the tenant is responsible for it.

I further find that the tenant provided a forwarding address to the landlord's agent on the date that the parties originally met at the rental unit, which the landlord's agent stated was on August 31, 2011. The Landlord's Application for Dispute Resolution was filed with the Residential Tenancy Branch on September 13, 2011, which is within 15 days as required by the *Act*, and therefore I find that the landlord has complied with Section 38 of the *Residential Tenancy Act*. The landlord is entitled to keep the security deposit in the amount of \$600.00 in partial satisfaction of the claim.

The cost of serving the tenant with the application, notice of hearing and evidence package is not recoverable under the *Act*.

Since the landlord has been partially successful with this application, the landlord is also entitled to recovery of the \$50.00 filing fee for the cost of this application.

Conclusion

For the reasons set out above, I hereby order the landlord to keep the security deposit in the amount of \$600.00 and I grant a monetary order in favour of the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$492.32. This order is final and binding on the parties and may be enforced.

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 08, 2011.

Residential Tenancy Branch