



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution under the Residential Tenancy Act, (the "Act"), by the Landlord for a monetary order for compensation for damage or loss and recovery of the filing fee and an order to keep the security deposit.

Both parties attended the hearing, gave affirmed testimony and were provided the opportunity to present evidence orally and in written and documentary form, and make submissions to me.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order for compensation for damage or loss and recovery of the filing fee and an order to keep the security deposit?

Background and Evidence

The parties agree that they had a tenancy agreement which commenced June 01, 2011 and ended on August 27, 2011 when the Tenant moved out. The parties agree that the rent, due on the first of each month, was \$450.00 per month at the time the tenancy ended. The parties agree that the Tenant paid a \$250.00 security deposit when the tenancy commenced. The Landlord provided a copy of the tenancy agreement into evidence.

The Landlord stated that the Tenant was living with his father in the rental unit prior to June 01, 2011 and the Tenant did not sign a tenancy agreement with the Landlord until the father moved out on June 01, 2011. The parties agree that when the tenancy ended on August 27, 2011 as the Tenant was having difficulty paying the rent. The parties agree that the Tenant provided written authorization for the Landlord to keep the security deposit for unpaid rent. The parties agree that the Tenant signed an agreement with the Landlord to pay outstanding amounts to the Landlord relating to the tenancy and the condition of the rental unit at the end of the tenancy as follows:

Outstanding rent for August 2011:	\$250.00
Cleaning (10 hours x \$15.00/hr)	\$150.00
Carpet cleaning	\$80.00
Rekeying mail box	\$35.00
Dump fee	\$35.00
Damages (large holes in walls)	\$495.00
Less security deposit	- \$250.00
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Balance owed to Landlord:	\$795.00

The Landlord provided in to evidence copies of the documents signed by the Tenant.

The Tenant stated that he provided the Landlord written authorization to keep the security deposit of \$250.00 and that he also has a written agreement with the Landlord that he owes the Landlord \$795.00 for cleaning and other damages and losses in relation to the tenancy. The Tenant stated that he had not been able to pay the Landlord as he had not been working for several months.

The Landlord states that as the rental unit was significantly damaged by the Tenant with large holes left in several walls, significant repair work needed to be done, as a result the Landlord had a loss of rental income for September 2011 in the amount of \$450.00. The Landlord provided photos of the damage into evidence. The Landlord is requesting permission to keep the security deposit of \$250.00, a monetary order for the \$795.00 balance of damages and losses owed by the Tenant, and a monetary order to the rental income loss for the month of September 2011 in the amount of \$450.00 and the filing fee of \$50.00 for their application.

The Tenant agreed at the hearing that he is responsible for the Landlord's rental income loss of \$450.00 and agrees with the Landlord's claim for this additional amount. The Tenant stated that he wishes to take responsibility for the damages and losses he has caused to the Landlord, but he still is not sure when he will be able to pay the Landlord for the amounts owed.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

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.

Section 37 (2) of the Act states:

Leaving the rental unit at the end of a tenancy

37 (2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and
- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

I find that the parties are in agreement with regards to the amounts claimed by the Landlord for unpaid rent, loss of rental income, and damages and losses in relation to the tenancy. As a result I find that the Landlord is entitled to the following amounts:

Outstanding rent for August 2011:	\$250.00
Cleaning (10 hours x \$15.00/hr)	\$150.00
Carpet cleaning	\$80.00
Rekeying mail box	\$35.00
Dump fee	\$35.00
Damages (large holes in walls)	\$495.00
<u>Rental income loss for Sept.2011:</u>	<u>\$450.00</u>
Subtotal:	\$1,495.00

I find that the Landlord had to come to dispute resolution in order to obtain a monetary order against the Tenant, as by the Tenant's own admission he has been unable to pay the Landlord the amounts owed in relation to the tenancy. As a result, I find that it is appropriate to order the Tenant to pay the Landlord for the filing fee for this Application (\$50.00). This brings the subtotal owed to the Landlord to \$1,545.00.

I find that the Tenant agrees that the Landlord may keep his security deposit of \$250.00 and has provided the Landlord written authorization to do so. As a result, I order that the Landlord retain the security deposit of \$250.00 in partial satisfaction of the claim. I grant the Landlord a monetary order pursuant to section 67 for the balance of the amount owing to the Landlord is **\$1,295.00.**

Conclusion

I grant the Landlord's claim for unpaid rent, rental income loss, compensation for damage and loss, and the filing fee.

I find that the Landlord is entitled to \$1,545.00, as I have ordered that the Landlord retain the security deposit of \$250.00, I find that the Landlord is entitled to monetary order for the balance owing pursuant to section 67 against the Tenant in the amount of **\$1,295.00**. This order must be served on the Tenant and may be filed in the Provincial Court (Small Claims).

The order accompanies the Landlord's copy of this decision.

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: March 21, 2012.

Residential Tenancy Branch