



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, 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 unpaid rent, compensation for damage or loss, damage to the unit site or property, 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 unpaid rent, compensation for damage or loss, damage to the unit site or property, 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 November 01, 2011 and ended when the Tenant had moved out without providing notice or a forwarding address. The parties agree that the rent, due on the first of each month, was \$997.50 per month at the time during the tenancy. The parties agree that the Tenant paid a \$498.75 security deposit when the tenancy commenced. The Landlord provided a copy of the tenancy agreement into evidence.

The parties agree that the Tenant had lived in the rental unit for over nine months and had signed several tenancy agreements with the Landlord. The parties signed a new tenancy agreement on October 31, 2011 for the tenancy commencing on November 01, 2011. The Tenant stated that the roommate, MT, signed the tenancy agreement as well. The Tenant did not provide a copy of a tenancy agreement with MT’s signature. The copy of the tenancy agreement provided by the Landlord into evidence names the

Tenant and is signed by the Tenant and Landlord only, and does not contain MT's name or signature.

The Tenant stated that he began to have difficulty paying the rent when his roommate left without paying his portion of the rent. The Tenant stated he received a 10 Day Notice to End Tenancy for unpaid rent for December 2011 and that he paid the outstanding rent within 5 days as required by the Notice. The Tenant stated that he moved out of the rental unit on or before December 25, 2011 to live with his parents, and did not give the Landlord written notice.

The Landlord stated that the Tenant paid the outstanding rent on December 16, 2011, which is within 5 days of receiving the 10 Day Notice to End Tenancy of December 12, 2011, as a result the tenancy continued. The Landlord stated that when the Tenant paid the outstanding rent, he informed the Landlord that he would try to get another roommate. The Landlord stated that the Tenant provided him not notice and he was not aware the Tenant had moved out. The Landlord stated that the Tenant failed to pay the rent on January 01, 2012 so the Landlord went to the rental unit and knocked but got no answer. The Landlord stated that on January 02, 2012 another tenant at the building informed him that the Tenant had moved out a few days ago. The Landlord stated that he posted a notice to enter the rental unit. The Landlord stated that he entered the rental unit on January 03, 2012 and found it vacant and that the Tenant had abandoned the rental unit leaving the keys on the counter. The Landlord stated that he located the Tenant at his place of work and on January 27, 2012 the Landlord personally served the Tenant with the Application and Notice of Hearing. The Landlord stated that the Tenant did not pay rent for January 2012 in the amount of \$997.50; as a result the Landlord has rental income loss for January 2012 due to the Tenant abandoning the rental unit and not providing notice as required by the Act and tenancy agreement. The Landlord stated that he paid a contractor \$200.00 to provide advertising for the rental unit to find new tenants. The Landlord provided a copy of the receipt from the advertising contractor into evidence. The Landlord stated they were able to get new tenants for February 01, 2012. The Landlord is claiming rental income loss in the amount of \$997.50 for January 2012 and \$200.00 for advertising costs.

The Tenant stated that he agrees that he did not give notice. The Tenant stated that he thought that the 10 Day Notice he received meant he was being evicted, even though he paid the rent within 5 days of receiving the Notice. The Tenant stated that if the Notice was not in effect, then he does not dispute the Landlord's claim for rental income loss for January 2012 or advertising costs.

The Landlord stated that the Tenant broke part of the fridge and the Landlord had to get a replacement part at a cost of \$34.16. The Landlord provided a copy of the receipt and a photograph of the damaged fridge into evidence.

The Tenant stated that he agrees part of the fridge was broken during the tenancy and does not dispute the Landlord's claim for cost of the replacement part.

The Landlord stated that the rental unit was very dirty at the end of the tenancy and no cleaning of the rental unit or the carpets was done by the Tenant before he moved out. The Landlord stated that the walls of the rental unit were also damaged by the Tenant. The Landlord submitted photos of the rental unit showing large holes in the walls of the rental unit and the condition of the rental unit. The Landlord provided a copy of the receipt for the cleaning and walls repairs in the amount of \$472.50, and a copy of the receipt for the carpet cleaning in the amount of \$89.60.

The Tenant acknowledged that he did not do any cleaning of the rental unit or the carpets before moving out. The Tenant stated that the holes in the walls of the rental unit occurred during his tenancy and that he accepts responsibility for the damage. The Tenant stated that he does not dispute the Landlords' claim for these amounts.

The Landlord stated that a set of wooden blinds were broken in the rental unit. The Landlord stated that they paid \$117.60 and had these replaced. The Landlord submitted a photograph of the broken blinds and a copy of the invoice into evidence for the cost of replacing the blinds.

The Tenant confirmed that the damage to the blinds occurred during his tenancy and stated that his roommate broke the blinds. The Tenant did not dispute the Landlord's claim.

The Landlord stated the Tenant scraped and dented the wood laminate floors in the living room of the rental unit. The Landlord provided pictures of the floor damage into evidence. The Landlord stated that although the floors in the rental unit are four years old, they were in good condition when the tenancy commenced. The Landlord stated that they have not undertaken the repair work to the floors at this time, and that new tenants are living in the rental unit. The Landlord provided an estimate of what it would cost to repair the floors and is seeking \$260.99 for the damage to the floors.

The Tenant stated that he was not aware of any damage to the floors. The Tenant does not agree with the Landlord's claim for floor repairs.

The Landlord requests a monetary order for the amounts he has claimed, recovery of the filing fee of \$50.00 for the Application, and authorization to keep the Tenant's security deposit towards the amounts owed.

The Tenant stated that the Landlord can keep the security deposit of \$498.75 towards the amount he owes.

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.

The Landlord confirmed that new tenants moved into the rental unit on February 01, 2012. The Landlord stated at the hearing that they have not undertaken the floor repairs at this time and have only provided a quote of an estimate of \$260.99 for future floor repairs. I find that the Landlord has not incurred any costs or suffered any loss in regards to the floors of the rental unit at this time. I dismiss the Landlord's claim for floor repair.

I find that there is no dispute that the Tenant paid the rent in full on December 19, 2011, within 5 days of receiving the 10 Day Notice to End tenancy of December 16, 2011. As a result, I find that the tenancy continued and that the Notice did not end the tenancy. I find that the Tenant ended the tenancy when he moved out of the rental unit without providing written notice in accordance with the requirements of the Act and the tenancy

agreement. I find that the Landlord undertook reasonable steps to find new tenants as soon as he became aware that the Tenant had abandoned the rental unit. I find that the Landlord incurred advertising costs and rental income loss for January 2012 as a result. I find that the Landlord is entitled to \$200.00 for advertising costs and \$997.50 for rental income loss for January 2012.

The Tenant indicated that he does not dispute that he is responsible for the costs the Landlord incurred for fridge parts replacement (\$34.16), blinds replacement (\$117.60), carpet cleaning (\$89.60), rental unit cleaning and wall repair (\$472.50). The Landlord provided receipts and photographic evidence in support of his claim. I find that the Landlord is entitled to \$713.86 for these repair and cleaning costs as a result.

Section 72 of the Act specifies that the filing fee can be awarded as determined by the Dispute Resolution Officer. As the Landlord has in part succeeded in their Application, I find that the Landlord is entitled to recover the \$50.00 fee for this proceeding. This brings the total amount the Landlord is entitled to \$1,961.36.

I find that the Tenant agrees that the Landlord may keep his security deposit of \$.... and has provided the Landlord written authorization to do so. As a result, I order that the Landlord retain the security deposit of \$498.75 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 **\$1,462.61**.

Conclusion

I dismiss the Landlord's claim for floor repair.

I grant the Landlord's claim in the amount of \$1,961.36, which represents rental income loss for January 2012 (\$997.50), advertising costs (\$200.00), fridge parts replacement (\$34.16), blinds replacement (\$117.60), carpet cleaning (\$89.60), rental unit cleaning and wall repair (\$472.50), and the filing fee (\$50.00).

I find that the Landlord is entitled to \$1,961.36, as I have ordered that the Landlord retain the security deposit of \$498.75, 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 **\$1,462.61**. 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: April 04, 2012.

Residential Tenancy Branch