



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNR, MND, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damage to the unit – Section 67;
2. A Monetary Order for unpaid rent – Section 67;
3. An Order to retain all or part of the security deposit – Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not appear. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on December 1, 2011 and ended on January 31, 2012. Rent in the amount of \$779.00 was payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit of \$425.00 and a pet deposit of \$200.00 from the Tenant. A move-in inspection was conducted between the Parties on November 25, 2011 and a copy of that report was filed as evidence.

The Landlord received \$325.00 for January rent and claims the remaining unpaid rent of **\$454.00**. The Landlord also claims **\$25.00** for parking as provided in the tenancy agreement, a copy of which was filed for the Hearing.

The Landlord states that a move-out inspection was conducted on February 1, 2012 however it is unknown whether the Tenant was provided with any opportunity to participate in the inspection. A copy of the move-out inspection report was sent to the Tenant and filed as evidence for the Hearing. The move-out report notes costs that are claimed for items left unclean or damaged however the cleaning is done by paid employees who do not bill the Landlord for the work done. At no time during the tenancy was the Tenant provided with any indication of the costs for cleaning the unit that would be applied at the end of the tenancy if left incomplete. The Landlord states that it normally takes approximately 3 to 4 hours to clean a unit the same size as that of the Tenant's. The Landlord claims costs of \$219.00 for cleaning and a remote charge. Photos of the state of the unit at the end of the tenancy were not provided by the Landlord. It is noted that the tenancy agreement does not provide for a remote.

Analysis

Section 35 of the Act requires that at the end of a tenancy, a landlord and tenant must together inspect the condition of a rental unit and the landlord must offer the tenant at least two opportunities for the inspection. Section 36 of the Act further provides that where a Landlord does not offer the tenant two opportunities for an inspection, the right to claim against the security deposit for damage to the residential property is extinguished. Given that the Landlord provided no evidence of two opportunities for a move-out inspection, I find that the Landlord's right to claim damages to the unit against the security deposit is extinguished.

Section 37 of the Act provides that when a tenancy vacates a rental unit, the tenant must leave the unit reasonably clean and undamaged except for reasonable wear and tear. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage

or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party and that costs for the damage or loss have been incurred or established.

Although the Landlord supplied a charge list for the items claimed for cleaning, no costs were incurred by the Landlord for such cleaning. Further, given the usual time taken to clean a similar unit and considering the lack of photo evidence of the state of the unit at move-out, I find that the costs claimed for this unit far exceeds a reasonable per hour cost. Accordingly, and noting that the costs claimed for the remote is not provided for in the tenancy agreement, I dismiss the Landlord's claim for costs of cleaning the unit and costs for the remote.

Based on the undisputed evidence of the Landlord along with corroborating evidence provided by the tenancy agreement, I find that the Landlord has substantiated its claim for unpaid rent in the amount of \$454.00, plus parking of \$25.00, for a total entitlement of \$479.00. Given the Landlord's limited success with its claim, I decline to make an order for recovery of the filing fee. As the Landlord holds **\$625.00** as the pet and security deposit, I order the Landlord to retain the amount of **\$479.00** and to return the remaining amount of **\$146.00** to the Tenant forthwith.

Conclusion

I Order the Landlord to retain the amount of \$479.00 from the security deposit plus interest in the amount of \$625.00 in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for the amount of **\$146.00**. 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: April 10, 2012.

Residential Tenancy Branch