



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

The Landlord and Tenant were each 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 March 1, 2011 with a fixed end date of March 1, 2013. Rent of \$1,100.00 was payable monthly and at the onset of the tenancy, the Landlord collected \$550.00 for a security deposit and \$250.00 for a pet deposit. The Tenant provided the Landlord with a written notice to end the tenancy on January 4, 2012. The Tenant states that the Landlord knew in December 2011 that the tenancy would end and the Landlord states that the Tenant was only contemplating moving in December 2011. The Tenant moved out of the unit approximately a week prior to the end of January 2012 and states that this move happened early to give the Landlord more time to find new tenants. In the letter to end tenancy, the Tenant notes their responsibility for February 2012 rent should the Landlord not be able to rent the unit for February 2012.

The Parties agree that the Landlord first advertised the unit near the end of January by nailing a sign to a tree at the unit. The Landlord states that at the beginning of February 2012, an advertisement was placed on craigslist. A new tenant was found for March 1, 2012. The Landlord claims \$1,100.00 for lost rental income for February 2012.

The Landlord states that the tenant left the unit unclean and damaged and claims \$650.00 for repairing door and window hinges, painting and drywall and cleaning the unit. No move-in inspection was conducted and the Landlord states that no move-out inspection was conducted because the Tenant left and the Landlord did not know how to contact the Tenant until after February 10, 2012. The Tenant states that the Landlord had her cell phone number at all times. The Tenant disputes the damages to the unit and states that they were either pre-existing damages or damages that occurred as a result of a leak from a hot water tank. The Landlord states that the leak to the hot water tank was repaired immediately by the Landlord and was not responsible for the damages to the floor.

Analysis

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, that costs for the damage or loss have been incurred or established and that steps were taken by the claiming party to minimize or mitigate the costs claimed.

Although the Landlord placed an outdoor sign near the unit by the last week of January 2012 to advertise the vacancy, I find that this is not evidence of a reasonable or timely effort to minimize the losses claimed. I further find that the advertisement placed online at the beginning of February was also not timely and therefore not a reasonable effort to

minimize all losses for February 2012. Given that some effort was made however, I find that the Landlord has substantiated an entitlement to **\$550.00** as lost rental income.

Given the Tenant's dispute of the damages claimed to the unit and considering the lack of corroborating evidence provided by the Landlord of such damages, such as condition inspection reports or photos of the state of the unit at both move-in or move-out, I find that the Landlord has failed to substantiate a claim for losses arising from damages to the unit. I dismiss this part of the Landlord's claim. As the Landlord has only been partially successful with the claim, I find that the Landlord is entitled to recovery of half the filing fee in the amount of **\$25.00** for a total entitlement of **\$575.00**. As the Landlord still holds the security and pet deposit of **\$800.00**, I order the Landlord to retain the amount of **\$575.00** from the security deposit and return the remaining amount of **\$225.00** to the Tenant forthwith.

Conclusion

I Order the Landlord to retain the amount of \$575.00 from the security deposit plus interest in the amount of \$800.00 in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for the amount of **\$225.00**. 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: May 02, 2012.

Residential Tenancy Branch