



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to a monetary order for damages to the unit?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on November, 1, 2010. Rent in the amount of \$750.00 was payable on the first of each month. A security deposit of \$362.50.00 was paid by the tenant.

The landlord stated he is claiming for the following damage:

a.	January 2012, rent not paid	750.00
c.	Repaint	300.00
d.	3 doors smashed	325.00
e.	New flooring	200.00
f.	Door locks damaged	50.00
h.	Windows smashed	1,153.28
i.	Loss revenue	750.00
j.	Filing fee	50.00
	Total claimed	\$3,728.28

The landlord testified on January 4, 2012, at a Dispute Resolution Hearing the landlord was granted an order of possession for unpaid rent with an effective date of January 31, 2012. The landlord testified he has not received rent for January 2012 and is seeking compensation. The landlord stated the tenant vacated the property, however, he has

incurred substantial cost to repair the unit due to the condition it was left in by the tenant.

The landlord testified on January 28, 2012, a friend called him to tell him the rental unit door was left wide open and it appeared to be vacant. The landlord stated when he arrived at the unit, he entered the unit and all the tenant belongings were gone. The landlord stated windows had been broken and the walls were painted with bright unusual colours. The landlord stated he changed the locks to secure the rental unit as the tenant did not return the keys. Filed in evidence are photographs of the walls and ceilings painted bright pink, and other dark colours. Filed in evidence are photographs of smashed windows.

The witness for the landlord writes in her submission that she saw the unit door left wide open on January 28, 2012, and she called the landlord. The witness describes in her submission that "I escorted (name) from one room to the next and witnessed the damage that had been caused; bright paint had been put on the walls, covering the white and beige that had been there before. Almost every wall had puncture marks of different sizes. Doors windows were all damaged to various degrees." [Reproduced as written]

The landlord testified the tenant came back to the property on January 30, 2012, and the tenant caused further damage to the doors and destroyed the locks that he had installed on January 28, 2012 and the tenant was arrested for assaulting him.

The witness further writes "On Tuesday the 31st, January 2012, (name) asked me to accompany him inside the property, which I did. It was found that the carpets had been ripped off the floor" None of the doors fitted and had been so badly abused not one of them closed properly" [reproduced as written]

The landlord testified that he is seeking to recover loss of revenue for the month of February, 2012, due to the damage caused by the tenant to the rental unit. Filed in evidence are photographs of the unit, which show significant damage, much of which no claim was made for.

The landlord testified the tenant removed the stove and left it outside, which caused severe damage due to the rain and he was unable to have it repaired. The landlord stated the tenant never made any request to have the stove repaired.

The tenant testified that he did not pay rent for January 2012, and was evicted.

The tenant testified he is a professional painter and painted the rental unit with bright colors and that he did not have the landlord's permission.

The tenant stated he removed the carpets as they smelled from a previous sewer and water problem in the unit. The tenant stated he did not have permission of the landlord to remove the carpet.

The tenant testified that he disputes that he damaged the doors or windows. The tenant stated the doors were damaged previously by someone attempting to break into the unit.

The tenant testified when he moved into the rental unit the windows were cracked and he removed the glass as it was a safety concern.

The tenant testified that the stove was broken and he placed it outside and purchased his own appliance.

The tenant testified that he did not damage the doors or the locks and he left his keys on the counter for the landlord.

Analysis

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

In this case, I prefer the testimony of the landlord and the written submission of the landlord witness, which clearly show the tenant deliberately caused significant damage to the landlord's property. This is supported by the photographs filed into evidence.

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

January unpaid rent - The evidence of the parties was the tenant did not pay rent for January 2012. Therefore, I find the landlord is entitled to compensation for unpaid rent in the amount of **\$750.00**.

Stove missing - In this case, the evidence of the tenant was the stove was not working and he placed the stove outside. The evidence of the landlord was the tenant never requested the stove to be repaired. The tenant did not have permission from the landlord to remove the stove from the rental unit. I find the tenant was neglectful by not properly storing the appliance, which caused irreparable damage. Therefore, I find the amount the landlord is requesting to replace the stove is reasonable and I grant compensation in the amount of **\$150.00**.

Repaint - The evidence of the tenant was that he is a professional painter and he painted the unit in dark colors and the bathroom bright pink. The tenant did not have the landlord's permission to paint these colours. Further, the photographs submitted by the

landlord of the bathroom show the paint to be applied in a careless and deliberate manner to cause damage to the landlord's property. Therefore, I find the amount claimed by the landlord is reasonable and I grant the landlord compensation for repainting the rental unit in the amount of **\$300.00**.

3 doors smashed - The evidence of the tenant was someone attempted to break into the rental unit. However, there was no documentary evidence to support this claim such as a police report. The photographic evidence of the landlord filed in evidence supports the landlord's position that the damage was caused by the deliberate actions of the tenant. Therefore, I find the amount claimed by the landlord is reasonable and I grant the landlord compensation for the doors in the amount of **\$325.00**.

New flooring - The evidence of the tenant was he removed the carpets without the consent of the landlord. The tenant did not have the right to remove the carpet. Further, I find the tenant's action was deliberate to caused damage to the landlord's property. Therefore, I find the amount the landlord has claimed is reasonable and I granted the landlord compensation in the amount of **\$200.00**.

Door locks damaged - In this case, I prefer the evidence of the landlord and the written submission of the landlord's witness over the tenants for the following reasons. On January 28, 2012, the landlord had the locks changed. On January 30, 2012, and tenant was at the rental unit and was arrested by the police. I find it highly likely that the tenant did damage the locks and doors causing further deliberate damage. Therefore, I find the amount claimed as reasonable and I grant the landlord compensation for the door locks in the amount of **\$50.00**.

Smashed windows - In this case, I prefer the evidence of the landlord and the written submission of the landlord's witness over the tenants for the following reasons. The evidence of the tenant was the glass was removed due to previous cracks. The evidence of the landlord and the witness written submission was on January 28, 2012, there was damage to the windows at the rental unit. The photographs further supports the windows were smashed by deliberate damage and not removed as suggested by the tenant. Therefore, I find the amount claimed is reasonable and is supported by an estimate. I grant the landlord compensation for the windows in the amount of **\$1,153.28**.

Loss revenue - I find that the tenants deliberate actions caused significantly damaged the landlord property and made the property un-rentable. Therefore, the landlord is granted compensation for loss revenue in the amount of **\$750.00**.

I find that the landlord has established a total monetary claim of **\$3,728.28** comprised of the above described amounts and the \$50.00 fee paid for this application.

I order that the landlord retain the deposit and interest of **\$362.50** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$3,365.78**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary, and may retain the security deposit in partial satisfaction of the claim.

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: June 21, 2012.

Residential Tenancy Branch