



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for unpaid rent, and damages to the unit.

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.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for unpaid rent?
Is the landlord entitled to monetary compensation for damages?

Background and Evidence

The tenancy began on October 1, 2011. Rent in the amount of \$525.00 was payable on the first of each month. A security deposit of \$200.00 was paid by the tenant. The tenancy ended on November 15, 2012.

The landlord claims as follows:

a.	Unpaid rent for November 2011	\$525.00
c.	Wall Damage	\$300.00
d.	General maintenance and cleaning	\$350.00
e.	Filing fee	\$50.00
	Total claimed	\$1,325.00

The landlord testified the parties did not participate in a move-in inspection or a move-out inspection.

Unpaid rent for November

The landlord testified the tenant did not provide any notice to end tenancy and vacated the rental unit during the night. The landlord stated the tenant did not pay any rent for November, 2011. The landlord seeks to recover loss of rent for November 2011, in the amount of \$525.00.

The tenant stated he gave the landlord verbal notice that he would be leaving the rental unit on November 15, 2011. The tenant stated he gave the landlord half a month's rent in the amount of \$260.00 as a prorated amount for November 2011, rent.

Carpet cleaning

The landlord testified they were required to have the carpets cleaned after the tenancy ended. The landlord seeks to recover \$100.00 for having the carpets cleaned.

The tenant testified that he is not responsible to have the carpets cleaned as he was only in the rental unit for 45 days. The tenant stated they were in the same condition as when tenancy started.

Wall Damage

The landlord testified the tenant damaged the wall near the door. The landlord seeks to recover \$300.00 for having the wall repaired.

The tenant testified the damage to the wall was there when tenancy started. The tenant stated the damage is from the landlord not having a door stop attached to the door or wall and door can hit the drywall.

General maintenance and cleaning

The landlord testified the tenant did not leave the rental unit in a reasonable state of cleanliness and he paid \$350.00 for garbage remove and to have the unit cleaned. The landlord seeks to recover \$350.00.

The tenant testified that he left the rental unit in a reasonable stated of cleanliness. The tenant stated he left two bags of garbage outside for the next garbage collection day and he left a big TV in the rental unit as he was going to come back with a friend to help move it.

Analysis

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

Unpaid rent for November

The evidence of the landlord was the tenant did not provide written notice to end tenancy and the tenant moved out during the night. The evidence of the landlord was the tenant did not pay any rent for November 2011. The tenant's evidence was he paid the landlord \$260.00 for half a month's rent.

In the case, the landlord writes in his application the tenant "NOT PAID RENT" [reproduced as written]. The tenant knew the landlord was claiming for unpaid rent. The tenant has provided no documentary evidence to support his testimony, such as a bank account statement which would show he had the money to pay rent and that it was withdrawn from his account. Further, the tenant was obligated to pay for the full month of November 2011, as rent is not prorated, when a tenant decides to leave the rental early. Therefore, I find the landlord is entitled to November 2011, rent in the amount of \$525.00.

To prove a loss and have one party pay for the loss requires the other party to prove four different elements:

- Proof that the damage or loss exists;
- Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act or agreement;
- Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
- Proof that the Applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

In this case, the landlord has the burden of proof to prove a violation of the Act and a corresponding loss.

Condition inspection: start of tenancy

23 (1) The landlord and tenant together must inspect the condition of the rental unit on the day the tenant is entitled to possession of the rental unit or on another mutually agreed day.

Carpet cleaning

In this case, the landlord did not perform a move-in inspection with the tenant. The evidence of the landlord was the carpets were required to be cleaned, even though the tenancy lasted forty-five days. The evidence of the tenant was the carpets were left in the same condition as when tenancy commenced. In the absent of a move-in inspection and any other documentary evidence such as photographs. I find the landlord has failed to prove the damage exists and that it was due the action or neglect of the tenant. Therefore, I dismiss the landlord's claim for carpet cleaning.

Wall Damage

In this case, the landlord did not perform a move-in inspection with the tenant. The evidence of the tenant was the damage was there when tenancy commenced. In the absent of a move-in inspection and any other documentary evidence such as photographs. I find the landlord has failed to prove the damage exists and that it was due the action or neglect of the tenant. Therefore, I dismiss the landlord's claim for wall damage.

General maintenance and cleaning

The evidence of the landlord was the tenant did not leave the rental unit in a reasonable state of cleanliness. The evidence of the tenant was he left two bags of garbage outside for the next garbage collection and his TV was left behind. I find in the absent of any documentary evidence, such as photographs. I find the landlord has provided insufficient evidence to prove the tenant left the rental unit in an unreasonable state of cleanliness. Therefore, I dismiss the landlord's claim for general maintenance and cleaning

I find that the landlord has established a total monetary claim of **\$575.00** comprised of unpaid rent and the \$50.00 fee paid for this application.

I order that the landlord retain the deposit and interest of **\$200.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$375.00**.

This order may be filed in the Provincial Court (Small Claims) 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: June 27, 2012.

Residential Tenancy Branch