



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNDC, MNSD, 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 compensation– Section 67;
3. A Monetary Order for damage to the unit – Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenants were each served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenants did not attend the Hearing. 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?

Is the Landlord entitled to retain the security deposit?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on July 27, 2011 and ended on June 16, following the Tenants receiving a 10 day notice to end tenancy for unpaid rent with a stated effective date of June 16, 2012. Rent of \$550.00 was payable monthly and the Tenants failed to pay June 2012 rent. At the onset of the tenancy the Landlord collected \$275.00 as a security deposit. The Parties conducted a move-in inspection however the Tenants

were given the report and did not return it to the Landlord. No move-out inspection was conducted or offered to the Tenants. The Landlord claims \$550.00 for unpaid rent.

The Tenants left the unit unclean and damaged. The Landlord provided photos of the unit and claims the following costs for repairs that have not been completed to date and are based on estimates, some of which are verbal estimates:

- \$73.99 to replace a broken bi-fold door;
- \$ 43.00 and \$35.00 for broken blinds;
- \$75.00 for keys and deadbolt; and
- \$150.00 for cleaning the carpet.

The Landlord states that the above repairs have not been completed as the Landlord is busy renovating another unit. The Landlord further states that the unit has not been filled due to the repairs yet to be completed. The Landlord claims the following costs for repairs that have been completed by the Landlord:

- \$600.00 for cleaning the unit;
- \$200.00 for garbage removal.

Analysis

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 reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established. I dismiss the costs claimed by the Landlord for repairs to the unit that have not been completed and are based on estimates as I find that the costs have not been incurred or established as required. Based on the undisputed evidence of the Landlord and accepting that the repairs have been completed by the Landlord, I find that the Landlord has established an entitlement of **\$800.00** for the costs of cleaning and garbage removal.

Section 44 of the Act sets out when a tenancy will end. Where a Landlord has elected to end a tenancy because of non-payment of rent, a tenant is not liable to pay rent after the tenancy agreement has ended. If however, the tenant remains in possession of the premises, the tenant will be liable to pay occupation rent on a per diem basis until the landlord recovers possession of the premises. The Landlord in this case elected to end the tenancy agreement for non-payment of rent by serving a 10 day notice to end tenancy with a move-out date of June 16, 2012. The Tenant moved out on that date and the Landlord regained possession of the unit on that date. As such, I find that the Tenant is liable for rent to June 16, 2012 and the Landlord has established an entitlement to **\$275.00** for unpaid rent.

As the Landlord's application has met with only partial success, I find that the Landlord is entitled to half of the \$50.00 filing fee in the amount of **\$25.00** for a total entitlement of **\$1,100.00** (\$800.00 + 275.00 + 25.00). Setting the security deposit of \$275.00 plus zero interest off the entitlement leaves **\$825.00** owed by the Tenant to the Landlord.

Conclusion

I order that the Landlord retain the **deposit** and interest of \$275.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$825.00**. 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: August 23, 2012.

Residential Tenancy Branch