

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This is an application filed by the Landlord for a monetary order for money owed or compensation for damage or loss, to keep all or part of the pet damage and security deposits and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended the hearing and have acknowledged receiving the submitted documentary evidence, I am satisfied that both parties have been properly served.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the pet damage and security deposits?

Background, Evidence and Analysis

This Tenancy began on September 1, 2011 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$1,100.00 payable on the 1st of each month and a security deposit of \$550.00 and a pet damage deposit of \$150.00 were paid. No condition inspection reports for the move-in or the move-out were done.

The Landlord seeks a monetary order for \$4,200.00 which consists of \$3,000.00 for the loss of rental income (July and August of 2012), \$300.00 for general cleaning and carpet cleaning, \$500.00 for painting and drywall repairs and \$400.00 for the replacement of a toilet.

The Landlord states that the Tenant gave late notice to end the tenancy and vacated the rental on July 25, 2012. The Tenant disputes this stating that verbal notice was given in May of 2011 to end the Tenancy on June 30, 2012. The Tenant states that she vacated the rental unit on July 4, 2012, but has never returned the keys. The Landlord states that he received verbal notice to end the tenancy in the middle of June 2012 for June 30, 2012, but that the Tenant overheld the unit and he did not receive possession until July 25, 2012. The Landlord seeks recovery of the monthly rent of \$1,100.00 for

each of the two months (July and August) totalling, \$2,200.00 and \$800.00 because the Landlord states that his other Tenants ended their Tenancy with him because of issues regarding this Tenant.

I find based upon the evidence of both parties that the Tenant failed to give proper notice in writing to end the tenancy. The Tenant over-held the rental unit and vacated on July 4, 2012, but continued to have possession of the rental because of cleaning and repair work as noted by their invoices dated July 9, 2012. The Tenant also stated in her direct testimony that to this date, the keys have never been returned as of the date of this hearing. The Landlord responded that he had to change the locks, but was not seeking that expense. The Landlord has established a claim for loss of rental income for July 2012 of \$1,100.00. The Landlord's claim for the loss of rental income for August has not been established as the Landlord has not shown or provided any evidence of the mitigation of any losses (attempts to re-rent). The Landlord has also failed to show any entitlement to the additional \$800.00 for this portion of the claim from the early end of tenancy from other Tenants. These portions of the application are dismissed.

The Landlord seeks \$300.00 for general and carpet cleaning services. The Tenant disputes this stating that a handyman was hired and a carpet cleaning machine was rented to do this. The Tenant has submitted a copy of a receipt for \$173.89 dated for July 9, 2012 for the carpet cleaning labour and machine rental. The Landlord has submitted photographs of the stained carpet and his invoice for professional carpet cleaning of \$168.00 from Sunny Carpet & Upholstery Cleaning Ltd. The Landlord also seeks the remaining \$132.00 for his own personal time for general cleaning of the rental. I find that the Landlord has established a claim for the \$168.00 carpet cleaning expense based upon the submitted receipt and photographs. It is clear based upon the photographs submitted by both parties that the carpets remained stained after the Tenancy ended even though the Tenant hired a handyman. The Landlord has failed to establish a claim for the \$132.00 in general cleaning expense or provided any details of his personal time for any general cleaning.

The Landlord seeks recovery of \$431.20 for the replacement of a toilet during the tenancy. The Tenant does not dispute that the toilet had to be replaced after informing the Landlord that part of a plunger was lodged in the toilet. The Tenant with the permission of the Landlord had a plumber attend and the plumber advised that the toilet had to be replaced. The Landlord has submitted a copy of an invoice dated in November of 2011 for \$431.20 from Aqua Temp. The Tenant does not dispute the replacement, but questions the cost of the invoice. I find that as both parties have confirmed that the toilet had to be replaced because of the negligence of the Tenants,

the Landlord has established a claim for the \$431.20 expense. Although the Tenant disputes the actual cost, she has failed to satisfy me that the invoice was not reasonable.

The Landlord is also seeking \$500.00 for painting and the repair of a wall. The Landlord relies on the submitted Tenant's photographs and documentary evidence as well as his own. I find based upon the evidence submitted that I prefer the evidence of the Landlord over that of the Tenant regarding the discolorations on the walls in the rental unit. The Landlord has established that although the Tenant hired a contractor to paint and repair the walls, the work was deficient as shown by the photographs. However, the Landlord has failed to establish their claim for \$500.00 as no expenses have been documented or incurred. On this basis that damage occurred, but that Landlord was not able to establish a claim, I grant a nominal award of \$50.00.

The Landlord has established a total monetary claim of \$1,749.20. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the combined \$700.00 pet damage and security deposits in partial satisfaction of this claim and I grant the Landlord a monetary order for \$1,099.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted a monetary order for \$1,099.00.
The Landlord may retain both the pet damage and security deposits.

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: October 26, 2012.

Residential Tenancy Branch