

DECISION

Dispute Codes MND, MNR, MNDC, MNSD, FF

Introduction

This is an application filed by the Landlord for a monetary order for damage to the unit, site or property, for unpaid rent or utilities, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, to keep all or part of the security deposit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. The Tenant states that she did not receive any documentary evidence from the Landlord. The Landlord states that the Tenant was served with the notice of hearing and evidence package. The Tenant has confirmed receiving the notice of hearing and application for dispute resolution. The Landlord has provided as documentary evidence a copy the signed tenancy agreement, a copy of the Tenant's late notice to vacate the rental unit which the Tenant has acknowledged. The Landlord has included a copy of a incomplete condition inspection report for the move-in and the move-out. The Tenant has acknowledged the two reports and states that she only refused to sign the move-out report because she did not want to agree to pay the loss of rent claim for October 2012 without the Landlord attempting to re-rent the unit first. Included as well are documents relating to the history of Tenants occupying the rental unit. The Tenant has acknowledged the renting history with the various different Tenants. All of the documentary evidence was described in detail to the Tenant who acknowledged the information without dispute. The Tenant has not submitted any documentary evidence. I find that there is no prejudice to the Tenant for allowing the Landlord's evidence as the Tenant has confirmed their existence and does not dispute the information being offered. I find that both parties have been properly served with the notice of hearing and submitted evidence.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security deposit?

Background, Evidence and Analysis

This Tenancy began on August 1, 2010 on a fixed term tenancy ending on July 31, 2011 and then thereafter on a month to month basis as shown by the submitted copy of the signed tenancy agreement. A \$570.00 security deposit was paid on July 10, 2010.

The Landlord seeks a monetary order for \$1,180.48. This consists of general cleaning costs of \$50.25, carpet shampoo cleaning costs of \$61.60, drapery cleaning costs of \$37.50 and October loss of rent of \$956.13 for pro-rated rent for 26 days, September 2012 Rent NSF charge of \$25.00, September 2012 Late Rent charge of \$25.00, October 2012 NSF charge of \$25.00. The Tenant states in her direct testimony that she agrees with all of the costs being claimed by the Landlord save for two. The Tenant disputes that any October NSF charge of \$25.00 should be charged. The Landlord has agreed to withdraw this portion of the claim as it is evident that the Tenant was not in residence as they vacated after the move-out report on September 26, 2012. As such, no further action is required for the October 2012 NSF charge of \$25.00. The Tenant also disputes that she should not be held responsible for the recovery of the Landlord's \$50.00 filing fee.

I find based upon the evidence of the Tenant that the Landlord has established a claim for \$1,155.48. The Landlord having been successful in the application is entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$570.00 security deposit in partial satisfaction of the claim and I grant the Landlord a monetary order under section 67 for the balance due of \$635.48. 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 \$635.48.
The Landlord may retain the security deposit.

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: November 23, 2012.

Residential Tenancy Branch