



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's only.

The landlord testified the tenants had provided them with their forwarding address and that prior to serving the tenants any documents he confirmed their address by driving by the new address and identifying the tenants' vehicles.

The landlord provided documentary evidence the tenants were served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on October 10, 2012 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenants on the 5th day after it was mailed.

Based on the testimony of the landlord, I find that the tenants have been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for damage to the rental unit and for compensation for damage or loss and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 67, and 72 of the *Act*.

Background and Evidence

The landlords provided the following documents into evidence:

- A copy of a tenancy agreement signed by the parties on August 19, 2011 for a 1 year fixed term tenancy beginning on September 1, 2011 for a monthly rent of \$1,500.00 due on the 1st day of each month with a security deposit of \$750.00 and a pet damage of \$750.00 paid;
- A handwritten Damage Report signed by both parties and completed on September 1, 2011 at the time of the start of the tenancy identifying 8 items that were damage in the rental unit at that time;

- An email sent to the tenants on August 19, 2012 outlining a number of items that required repairs and cleaning and indicating that if the tenants completed this work prior to August 24, 2012 the landlord would reimburse the tenants \$350.00;
- A copy of a handwritten agreement signed by the male landlord and male tenant confirming the landlord was returning the pet damage and security deposit to the tenants on July 24, 2012 and that the rent for the month of August 2012 had been paid by the tenants to the landlords in cash;
- Receipts for the work and purchases required to complete the list of cleaning and repairs outlined in the August 19, 2012 email to the tenants.

The list included:

- Replacement of kitchen blinds - \$86.24
- Replacement of bedroom mirror - \$123.20
- Broken dryer dial - \$20.02
- Pressure wash garage and deck - \$85.11
- Drywall repairs - \$500.00
- House and carpet cleaning - \$260.00
- Painting walls - \$400.00
- Garbage removal - \$300.00
- Laminate floor damage - \$600.00
- Wood trim damage - \$200.00
- Door seal damage from dog - \$50.00
- Tile damage near washer/dryer - \$100.00
- Re-key for rental unit and mailbox – \$244.06
- Replacement of remote garage door opener – \$30.00

The landlords testified the tenants failed to complete any of the work on the list provided to them on August 19, 2012. The landlords also testified that they had agreed to allow the tenant to use the security and pet damage deposits to cover rent for August 2012 on the condition the tenants completed the repairs required.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 37 of the *Act* requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear, and give the

landlord all keys or other means of access that are in the possession and control of the tenant and that allow access to and within the residential property.

Based on the undisputed testimony of the landlords I find the tenants failed to fulfil their obligations under Section 37 of the *Act* and as a result the landlords have suffered a loss for which the landlord has provided sufficient evidence to establish the value of that loss.

As to the payment of rent for August 2012, I find the landlords returned the security and pet damage deposits to the tenants and then the landlord accepted rent from the tenants from the return of those deposits. As a result, I find the tenants have paid rent for the month of August 2012 and the landlords have returned the security in accordance with the *Act*, albeit prematurely.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$3048.63** comprised of \$2,998.63 for repairs and cleaning and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: January 04, 2013.

Residential Tenancy Branch

