



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNR, MNSD, 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 both landlords only.

The landlord testified the tenant was 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 tenant on the 5th day after it was mailed.

Based on the testimony of the landlord, I find that the tenant has 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 unpaid rent and utilities; for compensation for cleaning and damage to the rental unit; for all or part of the security deposit and pet damage deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 45, 67, and 72 of the *Act*.

Background and Evidence

The landlord provided into evidence the following documents:

- A copy of a tenancy agreement signed by the parties on September 30, 2009 for a 1 year fixed term tenancy beginning on October 1, 2009 that converted to a month to month tenancy on October 1, 2010 for a monthly rent of \$895.00 due on the 1st of each month with a security deposit of \$447.50 and a pet damage

deposit of \$350.00 paid. The tenancy agreement also stipulated the tenant was responsible for a portion of the utility costs;

- A copy of a handwritten notice from the tenant dated September 1, 2012 stating that she was planning to move out of the rental unit that weekend;
- A copy of a Condition Inspection Report completed at the start of the tenancy with all items noted as in good condition with the exception of the walls and trim in the entry being in fair condition;
- 25 photographs showing the condition of the rental unit at the end of the tenancy.
- Utility bills for hydro; water/sewer; and gas for the relevant period; and
- Receipts for supplies and repairs required.

The landlord seeks the following compensation:

- Rent in the amount of \$895.00 for September due to the tenant's short notice to end the tenancy;
- Utilities in the amount of \$281.42 based on 45% of the utility bills provided into evidence in accordance with the tenancy agreement;
- Cleaning the rental unit in the amount of \$240.00 for 12 hours work at \$20.00 per hour;
- Truck use and landfill fees to remove garbage in the amount of \$61.75;
- Replacements:
 - Bathroom door - \$45.00;
 - Light bulbs - \$31.21; and
- Compensation for the depreciated value of the damaged master bedroom laminate floor and the 2nd bedroom carpeting in the amount of \$100.00.

The landlords original Application also included a charge of \$7.82 for key replacements but the landlord testified the tenant did return the keys and they are no longer seeking compensation for replacement keys. The landlord also testified the rental unit was re-rented effective October 1, 2012.

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 45(1) of the *Act* stipulates that a tenant may end a tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

Section 45(3) states that if a landlord has failed to comply with a material term of the tenancy agreement and has not corrected the situation within a reasonable period after the tenant gives written notice of the failure, the tenant may end the tenancy effective on a date that is after the date the landlord receives the notice.

Based on the undisputed testimony and evidence before me I find that the tenant's notice of her intent to end the tenancy was received by the landlord on or after September 1, 2012. As such, I also find that the earliest the tenant could have ended the tenancy in compliance with Section 45 was October 31, 2012.

Therefore, I find the tenant was responsible to pay the landlord rent for the months of September and October 2012. However, as the landlord has testified the rental unit had been rented for October 1, 2012 to another tenant I find the tenant is now only responsible to provide payment to the landlord for rent for the month of September 2012 in the amount of \$895.00.

I also find based on the undisputed testimony and utility invoices provided by the landlords they are entitled to \$281.42 as claimed for utility charges.

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 documentary evidence submitted by the landlord and in the absence of any evidence or testimony to the contrary I find the landlord has establish the tenant failed to fulfil her obligations under Section 37 at the end of the tenancy and as a result the landlord has suffered a loss.

I also find the landlord has established the value of that loss through their documentary evidence including receipts and invoices. I find the landlord is entitled to \$477.96 in compensation for the cleaning and repairs required.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,704.38** comprised of \$895.00 rent owed; \$281.42 utilities owed; \$477.96 cleaning and repairs and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and pet damage deposit held in the amount of \$797.50 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$906.88**.

This order must be served on the tenant. If the tenant fails 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

