



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- authorization to retain all of the tenant's security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

In the Details of the Dispute section of the landlord's application, it was apparent that the landlord was also seeking a monetary award for damages and losses arising out of this tenancy pursuant to section 67 of the *Act*. In accordance with the powers delegated to me under the *Act*, I have included the landlord's request for a monetary award for damages and losses as part of the landlord's application.

The tenants did not attend this hearing, although I waited until 9:44 a.m. in order to enable them to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that this tenancy ended on September 30, 2012, when the tenants vacated the rental unit in accordance with their August 28, 2012 written notice that they were vacating the rental unit. The landlord provided evidence that she received this notice on August 29, 2012. The landlord entered written evidence to demonstrate that copies of the landlord's dispute resolution hearing package were sent to the tenants by registered mail on October 12, 2012. The landlord entered into written evidence copies of the Canada Post Tracking Number to confirm these registered mailings. The landlord also testified that both notices were returned unclaimed from the mailing address provided to the landlord by the tenants. In accordance with section 90 of the *Act*, I am satisfied that the tenants were deemed to have been served with the landlord's dispute resolution hearing packages on October 17, 2012, the fifth day after their mailing.

At the commencement of the hearing, the landlord reduced the amount of the monetary award sought from \$894.00 to \$884.00, as a result of a mathematical error in the original application.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for damages and losses arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This one-year fixed term tenancy commenced on July 1, 2012. Monthly rent was set at \$1,470.00, plus \$90.00 parking, payable in advance on the first of each month. The landlord continues to hold the tenants' \$735.00 security deposit paid on June 8, 2012.

The landlord entered into written evidence copies of the June 30, 2012 joint move-in condition inspection report and the September 30, 2012 joint move-out condition inspection report. She testified that one of the tenants signed the Security Deposit Statement at the end of the joint move-out condition inspection report, in which the tenant agreed to an itemized list of deductions totalling \$894.00. In this statement, the tenant also agreed that "If the total owing to the Landlord exceeds my deposit(s), I agree to pay the Landlord the excess amount."

In the Details of the Dispute section of the landlord's application, the landlord identified the following items in the original claim for a monetary award of \$894.00:

Item	Amount
General Suite Cleaning	\$150.00
Window and Blinds Cleaning	100.00
Carpet Cleaning	159.00
Painting	75.00
Liquidated Damages	350.00
Recovery of Filing Fee for this application	50.00
Total of Above Items	\$884.00

Analysis

Based on the undisputed sworn oral, written and photographic evidence provided by the landlord, I am satisfied that the landlord has demonstrated entitlement to a monetary award for each of the above items listed. The landlord submitted invoices and receipts to demonstrate that the work claimed was undertaken and in some cases exceeded the amounts listed in the Security Deposit Statement signed by one of the tenants on September 30, 2012, and the application for a monetary award. For example, the landlord charged only \$75.00 of the total \$392.00 charge for repainting this rental suite. I am also satisfied that the landlord's claim for \$350.00 for liquidated damages was in

accordance with section 5 of the Residential Tenancy Agreement signed by the parties and entered into written evidence by the landlord. As the landlord has been successful in this application, I allow the landlord's application to recover the filing fee for this application from the tenants. I issue a monetary award in the landlord's favour in the amount of \$884.00 for the items outlined above.

I order the landlord to retain the tenants' security deposit plus applicable interest in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period.

Conclusion

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover losses and damages arising out of this tenancy and the filing fee for this application and to retain the tenants' security deposit:

Item	Amount
General Suite Cleaning	\$150.00
Window and Blinds Cleaning	100.00
Carpet Cleaning	159.00
Painting	75.00
Liquidated Damages	350.00
Recovery of Filing Fee for this application	50.00
Less Security Deposit	-735.00
Total of Monetary Order	\$149.00

The landlord is provided with these Orders in the above terms and the tenant(s) must be served with a copy of these Orders as soon as possible. Should the tenant(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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 10, 2013

Residential Tenancy Branch

