



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNR, MNDC, MNSD FF

Introduction

This was an amended application by the landlord for a monetary order for damage to the rental unit, unpaid rent and recovery of the filing fee. The application also requested retention of the security deposit in partial satisfaction of the monetary claims.

Both parties participated in the hearing with their submissions, document evidence and testimony during the hearing. Prior to concluding the hearing both parties acknowledged they had presented all of the *relevant* evidence that they wished to present. The tenant acknowledged receipt of the *initial package* of the landlord's evidence, but did not receive the landlord's amendment or subsequent evidence to the application. The landlord acknowledges they did not send the tenant the amendment or subsequent evidence because they were not in possession of the tenant's address. All document evidence not received by the tenant has not been considered.

Issue(s) to be Decided

Is the landlord entitled to a monetary order in the amount claimed?

Background and Evidence

The undisputed relevant testimony in this matter is that the tenancy started July 01, 2012 and ended March 01, 2013 as per the landlord's effective date on their 1 month Notice to End dated February 04, 2013. The payable rent was \$1200.00 per month. At the outset of the tenancy the landlord collected a security deposit in the amount of \$600.00 which the landlord retains in trust. At the start of the tenancy the parties conducted a move in inspection. At the end of the tenancy the landlord did not complete an inspection report despite the tenant vacating the rental unit in accordance with the landlord's Notice to End.

The parties agree the tenant did not pay rent for February 2012 – the last month of the tenancy. The landlord further claims rent for March 2013 as the tenant did not provide Notice to End in accordance with the Act. The tenant claims they did not need to provide notice they were vacating as they vacated in accordance with the landlord's Notice to End on March 01, 2013.

The parties also agree the tenant did not return a postal box key, for which the landlord claims \$50.00.

The parties also agree the tenant did not return 2 bins provided by the landlord, for which the landlord claims \$30.00.

The parties further agree the tenant compromised the rental unit entrance door locking mechanism for which the tenant did not inform the landlord. The landlord did not provide document proof of this claim.

The tenant agrees they left the rental unit unclean, but that it was reasonably clean. The landlord disagreed, stating the tenant left garbage and some debris on the floors.

The parties disagree respecting the landlord's claim the tenant did not return a TV table, area rugs and a large stand up lamp.

The landlord seeks to recover registered mail costs. The landlord was advised in the hearing that such costs are not compensable as all parties are responsible for their own litigation costs, other than what is prescribed by the Act: recovery of the filing fee.

Analysis

Under the *Act*, the party claiming the damage or loss bears the burden of proof. Moreover, the applicant must satisfy each component of the following test:

1. Proof the damage or loss exists,
2. Proof the damage or loss were the result, *solely, of the actions or neglect of the other party (the tenant)* in violation of the *Act* or agreement
3. Verification of the actual amount required to compensate for the claimed loss or rectify the damage.
4. Proof that the claimant followed section 7(2) of the *Act* by taking reasonable steps to mitigate or minimize the loss or damage.

Therefore, in this matter, the landlord bears the burden of establishing their claim on the balance of probabilities. The claimant must prove the existence of damage or a loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. Finally, the claimant must show that reasonable steps were taken to address the situation and to mitigate the damage or losses that were incurred.

The landlord relies on their determination that the tenant caused the purported losses. The tenant agrees, in part, with the landlord, and that the landlord is unreasonable in respect to the balance of their claims.

On the testimony of the parties and on balance of probabilities, I find the landlord has established they are owed rent for February in the amount of **\$1200.00**, **\$30.00** for rubbish bins, and **\$50.00** for a postal box key. I find the landlord has established they are owed a quantum for cleaning, which in the absence of a receipt I limit to **\$100.00**, and I am satisfied the tenant compromised the door lock to the rental unit, which in the absence of a receipt I limit to **\$100.00**. I find the landlord has not provided evidence to support their claim that the tenant in this matter did not return the remainder of the missing items they claim, and those items are **dismissed**, without leave to reapply.

I find the tenant acted on the landlord's Notice to End and vacated in compliance with it. I find the tenant was not required to provide notice they were vacating, and the landlord ought to have known and expected the tenant might vacate and acted to mitigate future losses of revenue. Therefore, **I dismiss** the landlord's claim for March 2013 loss of revenue, without leave to reapply.

As the landlord was partly successful in their application, the landlord is entitled to recover their filing fee of **\$50.00** for a total entitlement of **\$1530.00**. The security deposit will be off-set from the award made herein.

Calculation for Monetary Order

| | |
|--|-----------------|
| Rental Arrears for February 2013 | \$1200.00 |
| Rubbish bins | \$30.00 |
| Postal box key replacement | \$50.00 |
| Cleaning | \$100.00 |
| Locksmith | \$100.00 |
| Filing Fees for the cost of this application | \$50.00 |
| <i>Less Security Deposit</i> | <i>-600.00</i> |
| Total Monetary Award to landlord | \$930.00 |

Conclusion

I Order that the landlord retain the security deposit of \$600.00 in partial satisfaction of the claim and I grant the landlord an Order under Section 67 of the Act for the balance due of **\$930.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

This Decision is final and binding on both parties.

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: March 19, 2013

Residential Tenancy Branch