



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MND, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the landlords application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; a Monetary Order for damage to the unit, site or property; for an Order permitting the landlord to keep all or part of the tenants security deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act* (*Act*), regulations or tenancy agreement; and to recover the filing fee from the tenant for the cost of this application.

At the outset of the hearing the landlord advised that the tenant is no longer residing in the rental unit, and therefore, the landlord withdraws the application for an Order of Possession.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on April 13, 2013. Mail receipt numbers were provided in the landlord's documentary evidence along with proof that the tenant collected the registered mail on April 22, 2013.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent?
- Is the landlord entitled to a Monetary Order for damage to the unit, site or property?
- Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss?
- Is the landlord permitted to keep the tenants security deposit?

Background and Evidence

The landlord testifies that this tenancy started on April 15, 2012 for a fixed term which was due to end on April 30, 2013. Rent for this unit was \$1,200.00 per month and was due on the first day of each month in advance. The tenant paid a security deposit of \$600.00 at the start of the tenancy. Originally there were two tenants residing in the unit. The other tenant vacated the unit in February, 2013.

The landlord testifies that the tenant's rent cheque for April, 2013 was returned due to insufficient funds. The landlord has provided documentary evidence of this returned cheque from the bank. The landlord testifies that the tenant was served with a 10 Day Notice to End Tenancy on April 03, 2013. The landlord testifies that it has been determined that the tenant has since abandoned the rental unit leaving a small amount of personal belongings in the unit. The tenant has not returned the keys to the unit of the building and has gained access to the building to collect mail.

The landlord testifies that they no longer seek an Order of Possession as they now consider the unit to be abandoned, pursuant to section five of the Residential Tenancy Regulations, sometime in late March or early April. The landlord seeks a Monetary Order to recover the unpaid rent for April of \$1,200.00. The landlord also seeks an Order to apply the security deposit to the unpaid rent.

The landlord testifies that the tenant has caused damage to the carpets in the unit and the communal hallway. The carpets were stained with blood in both the hallway and the unit. The landlord had the carpets cleaned to see if the blood stains could be removed. Some stains did come out but others remained set in the carpet. The landlord seeks to recover the cost of carpet cleaning and has provided an invoice in evidence for the amount of \$47.45.

The landlord testifies that the tenant also ripped out a section of the carpet. This carpet was only two years old in the unit and the landlord has had to have the carpet replaced with a like for like carpet. The landlord has provided an invoice in evidence for the new carpet and seeks to recover the amount of \$1,185.12 from the tenant.

The landlord testifies that there are some other costs for cleaning and removal of garage and possible damage to the rest of the unit. The landlord has not yet been able to determine what damage as they have just determined the unit to be abandoned.

The landlord has provided a copy of the tenancy agreement, the inspection report, the 10 Day Notice, the NSF cheque and photographs showing the damage to the carpet in documentary evidence.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of the landlord. Section 26 of the *Act* states:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I am satisfied with the landlords evidence presented that this tenancy was a fixed term tenancy that was not due to expire until April 30, 2013. I am also satisfied that the

tenant's rent cheque for April was returned due to insufficient funds and the tenant failed to pay rent for April, 2013. Even if the tenant had abandoned the unit in late March the tenant would still be responsible for the rent for April, 2013 as this is a fixed term tenancy which is not due to end until April 30, 2013. I therefore find in favor of the landlords claim to recover unpaid rent and the landlord will receive a monetary award to the sum of **\$1,200.00**.

With regard to the landlords claim for damage to the unit; I am satisfied with the evidence before me that the tenant caused damage to the carpets in the unit and hall. The landlord's photographic evidence shows many blood stains on the carpets and a section of carpet that has been removed. I therefore find in favour of the landlords claim to recover the cost to clean the carpet of **\$47.45**. I further find the landlord is entitled to some costs for the replacement of the carpet. As the carpet was two years old I must take into account some deprecation to the value of the carpet. The Residential Tenancy Policy Guidelines #40 provides guidance on the useful life of a carpet as 10 years. I therefore deduct 20 percent from the landlord's carpet replacement costs and award the landlord the sum of **\$948.09**.

I Order the landlord to keep the tenants security deposit of **\$600.00** in partial satisfaction of the landlords claim pursuant to s. 38(4)(b) of the *Act*. The landlord is entitled to recover the **\$50.00** filing fee from the tenant pursuant to s. 72(1) of the *Act*. A Monetary Order has been issued to the landlord for the following amount pursuant to s. 67 and 72(1) of the *Act*.

Unpaid rent	\$1,200.00
Carpet cleaning	\$47.45
Replacement carpet less deprecation of 20 percent	\$948.09
Filing fee	\$50.00
Less security deposit	(-\$600.00)
Total amount due to the landlord	\$1,645.54

Conclusion

I HEREBY FIND in partial favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,645.54**. The order must be served on the respondent and is enforceable through the Provincial Court 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: May 09, 2013

Residential Tenancy Branch

