



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Boardwalk General Partnership
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD, 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 agent.

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 May 17, 2013 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 undisputed 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 compensation for cleaning the rental unit and for liquidated damages; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted into evidence a copy of a tenancy agreement signed by the parties on December 3, 2012 for a 1year fixed term tenancy beginning on October 1, 2012 for the monthly rent of \$939.00 due on the 1st of each month with a security deposit of \$469.00 paid. The landlord testified the tenant vacated the rental unit on January 31, 2013.

The tenancy agreement specified that should the tenant end the tenancy or give the landlord cause to end the tenancy in accordance with the *Act*, the landlord could seek compensation in the form of liquidated damages in the amount of \$400.00. The

agreement stipulates that the amount is a genuine pre-estimate of the costs associated with re-renting the rental unit prior to the end of the fixed term.

The landlord also provided a copy of a Condition Inspection Report confirming the condition of the rental at the start of the tenancy and at the end of the tenancy. The report and the photographic evidence submitted by the landlord records the rental unit required substantial cleaning including flooring; kitchen cabinetry, appliances; bathroom tiles and window tracks. The landlord also provided several photographs confirming the condition.

The landlord submitted a cost calculation sheet showing the estimated cost of cleaning was \$290.00. However, the landlord testified this amount was reduced to \$261.67 after the work was completed.

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.

I accept the tenancy agreement contained a liquidated damage clause; that the liquidated damages are not a penalty; and that the tenancy ended prior to the end of the fixed term. As such, I find the landlord has established entitlement to the amount of \$400.00 to satisfy this compensation requirement.

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.

I also find the landlord has provided sufficient evidence, in the form of the Condition Inspection Report and photographs, to establish the rental unit required cleaning and the charges are based on in house staff and supplies cleaning the property. I also accept the costs as outlined by the landlord to be reasonable for the work required.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$711.67** comprised of \$400.00 liquidated damages; \$261.67 for cleaning; and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$469.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$242.67**.

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: August 15, 2013

Residential Tenancy Branch