



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, seeking monetary orders under the Act and tenancy agreement, to keep the security deposit in partial satisfaction of the claim, and to recover the filing fee for the Application.

Only the Agent for the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent testified they served the Tenant with the Notice of Hearing and Application by registered mail, sent on May 16, 2013. In evidence the Landlord supplied a copy of the Canada Post receipt for registered mail. Under the Act, the Tenant is deemed served five days after mailing. Despite this the Tenant did not appear at the hearing. I find the Tenant has been duly served, in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the Landlord entitled to monetary compensation from the Tenant?

Background and Evidence

The parties signed a one year, fixed term tenancy agreement on October 23, 2012. The monthly rent was agreed at \$750.00 per month, and the Tenant paid a security deposit of \$375.00. The tenancy agreement contained a lease break fee, often referred to as a

liquidated damages clause, of \$350.00 if the Tenant terminated the tenancy during the first 12 months.

On March 28, 2013, the Tenant signed and gave the Landlord a "Notice to Vacate" the rental unit on April 30, 2013.

An outgoing condition inspection report and a "move out charge analysis" were prepared at the end of the tenancy. The Tenant agreed in writing that maintenance charges of \$305.00 were payable and that the Landlord could retain the security deposit. The maintenance charges were primarily for cleaning the rental unit, although the Tenant also did not return the keys.

In evidence the Landlord provided a copy of the tenancy agreement, the outgoing condition inspection report, a move out charge analysis, and the Tenant's Notice to End Tenancy.

Analysis

Based on the above, the uncontradicted evidence and testimony, the signed agreement of the Tenant, and on a balance of probabilities, I find as follows.

I find the Tenant has breached the one year fixed term tenancy agreement by ending the tenancy prior to the end of the fixed term, in breach of section 45 of the Act and of the tenancy agreement. I further find the Tenant breached section 37 of the Act, by failing to return the rental unit to the Landlord in a reasonably clean and undamaged condition, and failed to return keys.

I find the Tenant's breaches of the Act have caused the Landlord to suffer losses, and pursuant to section 67 of the Act, I award the Landlord \$350.00 in liquidated damages, \$305.00 in maintenance charges, and \$50.00 for the filing fee for the Application, totalling **\$705.00**.

I allow the Landlord to retain the security deposit of \$375.00 in partial satisfaction of the claims, and I grant the Landlord a monetary order for the balance due of **\$330.00**. This order may be filed and enforced through the Provincial Court.

Conclusion

The Tenant breached the Act and tenancy agreement when they ended a fixed term tenancy agreement prior to the end date. The Tenant also failed to clean the rental unit

to a reasonable standard. The Tenant must pay the Landlord a balance of \$330.00, following the deduction of the security deposit of \$375.00, from the total amount due of \$705.00

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: August 19, 2013

Residential Tenancy Branch

