



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding EMV Holdings Corp
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC FF

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution seeking remedy under the *Residential Tenancy Act* (the "Act"). The landlord applied for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the filing fee.

Two agents for the landlord (the "agents") appeared at the teleconference hearing and gave affirmed testimony. The agents were advised of the hearing process and were given the opportunity to ask questions about the hearing process during the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice") was considered. The agents testified that the Notice and evidence was served by registered mail on August 6, 2013. A tracking number for the registered mail package was submitted in evidence by the landlord. The agents stated that the registered mail package was addressed to the service address provided by the tenant during their previous dispute resolution hearing held on May 28, 2013. The agents stated that the registered mail package was returned to the landlord on August 27, 2013, having not been claimed by the tenant. Section 90 of the *Act* states that document served by registered mail are deemed served five days after the documents are mailed. As a result of the above, I find the tenant was sufficiently served under the *Act* as of August 11, 2013, which is five days after the tenant was served on August 6, 2013 by registered mail. I note that refusal of service does not constitute grounds for a Review.

Preliminary and Procedural Matter

Following an earlier dispute resolution hearing held on May 28, 2013, a Decision was issued dated June 18, 2013. The file number is referenced on the front page of this Decision for ease of reference. In the June 18, 2013 Decision, the landlord was granted

leave to reapply for blind cleaning costs and the landlord's actual monetary loss for June 2013. Furthermore, the agents testified that they have not previously applied for compensation for suite cleaning which was included in the Application before me. As a result of the above, I find that all of the landlord's monetary claim may be considered in this Decision.

Issues to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?

Background and Evidence

The agents testified that a fixed term tenancy began on November 1, 2012. Monthly rent in the amount of \$1,050.00 was due on the first day of each month. The tenant paid a security deposit which has already been ordered to the landlord pursuant to the June 18, 2013 Decision referenced above.

The agents testified that the tenant vacated the rental unit on May 28, 2013. The landlord has claimed for \$698.98 comprised of the following:

Item #	Description	Amount
1	Loss of rent for June 1-13, 2013	\$455.00
2	Suite cleaning	\$100.00
3	Blind cleaning	\$93.98
4	Filing fee	\$50.00
TOTAL		\$698.98

Item #1 is for \$455.00 for loss of rent for June 1-13, 2013, as the landlord was able to secure new tenant who moved into the rental unit on June 14, 2013. The agents stated that they determined the value of \$455.00 by dividing the monthly rent of \$1,050.00 by the number of days in June 2013 which was 30 days, which resulted in a daily rental rate of \$35.00 per day, and multiplied that amount by 13 days between June 1, 2013 and June 13, 2013. The agents stated that although the tenant breached a fixed term tenancy agreement, the landlord was able to minimize their loss by re-renting the rental unit effective June 14, 2013, which is why the landlord is not seeking the entire amount

of June 2013 rent. The Decision dated June 18, 2013 includes a finding that the tenant is responsible “for any loss of income experienced by the landlord for June [2013]”.

Item #2 is for \$100.00 for the cost to clean the rental unit. The agents testified that agent RP personally cleaned the rental unit to minimize the loss to the landlord and has claimed \$15.38 per hour multiplied by 6.5 hours to clean the rental unit. Agent RP stated that if they hired a cleaner, the cost would have been much more than the \$100.00 being claimed against the tenant. The agents submitted a copy of the condition inspection report in evidence which the agents stated supports that the rental unit was clean at the start of the tenancy, and not cleaned after the tenant vacated the rental unit. An invoice supporting the amount of \$100.00 was also submitted in evidence and is dated June 12, 2013.

Item #3 is for \$93.98 for blind cleaning. The agents testified that it cost a total of \$93.98 to have the blinds cleaned at the end of the tenancy. The agents stated that the condition inspection report submitted in evidence supports that the blinds were new at the start of the tenancy and were not cleaned at the end of the tenancy. An invoice for \$93.98 including tax was submitted in evidence supporting the amount for blind cleaning being claimed by the landlord dated May 28, 2013.

The landlord submitted a condition inspection report, the new tenancy agreement supporting that new tenants moved into the rental unit effective June 14, 2013, invoices, and previous Decision dated June 18, 2013 in evidence.

Analysis

Based on the documentary evidence, the undisputed testimony of the agents, and on the balance of probabilities, I find the following.

Test for damages or loss

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,

4. That the party making the application did whatever was reasonable to minimize the damage or loss.

Item #1 – Loss of rent for June 1 to 13, 2013 – The landlord has applied for \$455.00 in compensation for loss of rent between June 1, 2013 and June 13, 2013 due to the tenant breaching a fixed term tenancy. I find the calculation provided is reasonable and correct as submitted by the landlord. As the previous Decision dated June 18, 2013 includes a finding that the tenant is responsible “for any loss of income experienced by the landlord for June [2013]” I do not find it necessary to consider anything further than the amount of loss for June 2013 for this portion of the landlord’s claim. Section 7 of the *Act*, requires that a landlord minimize their loss which I find the landlord has complied with by re-renting the rental unit effective June 14, 2013. My finding is based on the supporting tenancy agreement submitted in evidence which supports that new tenants moved into the rental unit effective June 14, 2013. Based on the above, I find the landlord has met the burden of proof for this portion of their claim and I grant the landlord **\$455.00** in compensation for loss of rent between June 1, 2013 and June 13, 2013.

Items #2 – Suite cleaning costs – The landlord has claimed \$100.00 for the cost to clean the rental unit. The agents testified that agent RP personally cleaned the rental unit to minimize the loss to the landlord and has claimed \$15.38 per hour multiplied by 6.5 hours to clean the rental unit. Agent RP stated that if they hired a cleaner, the cost would have been much more than the \$100.00 being claimed against the tenant. The agents submitted a copy of the condition inspection report in evidence which supports that the rental unit was clean at the start of the tenancy, and not cleaned after the tenant vacated the rental unit. An invoice supporting the amount of \$100.00 was also submitted in evidence and is dated June 12, 2013. Section 37 of the *Act* states:

Leaving the rental unit at the end of a tenancy

37 (1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.

(2) When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and

(b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

[emphasis added]

Based on the above, I find the landlord has met the burden of proof to prove this portion of their claim, and that the tenant breached section 37 of the *Act* by failing to leave the rental unit in a reasonably clean condition and that the landlord minimized their loss by arranging for an agent to clean the rental unit at a lower cost to the tenant than if they had hired a professional cleaner. Therefore, I grant the landlord **\$100.00** in compensation for the cost of cleaning the rental unit.

Item #3 – Blind cleaning costs – The landlord has claimed \$93.98 for blind cleaning. The agents testified that it cost a total of \$93.98 to have the blinds cleaned at the end of the tenancy. I find that the condition inspection report supports that the blinds were new at the start of the tenancy and were not cleaned at the end of the tenancy. An invoice for \$93.98 including tax was submitted in evidence supporting the amount for blind cleaning being claimed by the landlord dated May 28, 2013. Based on the above, I find the landlord has met the burden of proof for this portion of their claim and I grant the landlord **\$93.98** in compensation for blind cleaning.

As the landlords' application had merit, I grant the landlord the recovery of the filing fee in the amount of **\$50.00**.

Monetary Order – I find that the landlord has established a total monetary claim in the amount of **\$698.98** comprised of \$455.00 for loss of June 1-13, 2013 rent, \$100.00 for suite cleaning, \$93.98 for blind cleaning, plus the \$50.00 filing fee.

Conclusion

I grant the landlord a monetary order under section 67 in the amount of \$698.98. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

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 *Residential Tenancy Act*.

Dated: September 20, 2013

