



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for compensation - Section 67;
3. A Monetary Order for damages to the unit – Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not attend the Hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on September 1, 2012 and ended on June 21, 2013. Rent of \$1,720.00 was payable monthly on the first day of each month. At the outset of the tenancy the Landlord collected \$860.00 as a security deposit and \$860.00 as a pet deposit. The tenancy agreement provides for a non-smoking unit and the Tenant’s

responsibility for water and sewer costs. No move-in and move-out condition inspections were conducted. The Tenants did not provide their forwarding address to the Landlord so the Landlord hired a private investigator who located the Tenants at their residence. The private investigator provided the address to the Landlord who also confirmed the Tenants' presence at the address by driving by and observing the Tenant's vehicles parked at the address.

The Landlord states that the Tenants failed to pay rent for June 2013 and claims \$1,720.00. The Landlord states that the Tenant failed to pay water utilities and claims half the utility costs of \$553.81.

The Landlord states that the Tenants failed to leave the unit reasonably clean and undamaged. The Landlord provides photos of the unit and claims as follows:

- \$304.50 for the cost of cleaning the carpets, receipt provided;
- \$210.00 for the cost of cleaning the lower part of the unit, receipt provided. Over a period of three days the Landlord also personally cleaned the upper part of the unit and made several trips to the dump to haul articles that were left behind. The Landlord seeks reasonable compensation for this work;
- \$52.80 for a broken toilet sea. The Landlord states that he has no receipt for this cost claimed;
- \$89.96 for the cost to replace a ceiling fan that was melted by the Tenants use of the wrong size light bulbs, receipt provided;
- \$94.98 for the cost of one side of a set of living room blinds that were broken and chewed by the pet. The Landlord claims only the one side of the blinds even though he replaced both sides, receipt provided;
- \$2,000.00 to 2,500.00 for the cost of painting the unit. The tenancy agreement provided that there was to be no smoking in the unit and after cleaning the rugs, the unit still smelled badly. The Landlord purchased the unit 5 years ago, the paint at that time was not fresh and the walls were not painted prior to the

tenancy. The living room wall and a bedroom wall had nail holes, estimate provided.

Analysis

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established. Based on the undisputed evidence of the Landlord and given the photos and receipts, I find that the Landlord has substantiated an entitlement to **\$699.44** for the costs to clean the carpets, cleaning the lower part of the unit, replacement of the ceiling fan, and replacement of the blinds. As the Landlord did not provide a receipt for the toilet seat, I find that the Landlord has not substantiated the cost claimed and I dismiss this claim. Considering the photos of the state of the unit at move-out, I find that the Landlord has substantiated a reasonable cost of **\$300.00** for his time in hauling garbage and cleaning the upper part of the unit.

The Residential Tenancy Branch guideline for the useful life of building elements provides that an average useful life of wall paint is four years. As the Landlord did not paint the unit in the past five years, I find that although the Tenants left the unit smelling of smoke, the useful life of the wall paint had already expired. As a result, I dismiss the Landlord's claim for painting the entire unit. Given the photos of wall damage however, I find that the Landlord has substantiated a nominal entitlement of **\$100.00**.

Based on the undisputed evidence that the Tenant failed to pay June 2013 rent and utilities owing, I find that the Landlord has substantiated an entitlement to **\$2,273.81**.

As the Landlord has been substantially successful with its claim, I find that the Landlord is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$3,423.25**. Deducting the combined security and pet deposit of \$1,720.00 from the entitlement leaves **\$1,703.25** owed by the Tenants to the Landlord.

Conclusion

I Order the Landlord to retain the security deposit plus interest of \$1,720.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining amount of **\$1,703.25**. If necessary, this order may be filed in the Small Claims Court and 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: October 03, 2013

Residential Tenancy Branch