



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary claim for unpaid rent or utilities, for compensation for damage to the unit, site or property, for compensation for loss or damage under the Act, regulations or tenancy agreement, to retain the Tenants' security deposit and to recover the filing fee for this proceeding.

The Landlord said she served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on July 26, 2013. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

1. Are there rent or utility arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid utilities and if so how much?
3. Are there damages to the unit and if so how much?
4. Is the Landlord entitled to compensation for the damage and if so how much?
5. Are there other losses or damages and is the Landlord entitled to compensation?
6. Is the Landlord entitled to keep the Tenants' security deposit?

Background and Evidence

This tenancy started on January 15, 2013 as a month to month tenancy. Rent was \$1,050.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$525.00 on January 3, 2013. The tenancy ended on June 30, 2013. A move in condition inspection report was done on January 18, 2013 and was signed by both the Landlord and the Tenant. A move out condition inspection report was completed by the Landlord in the absence of the Tenants on July 1, 2013. The Landlord gave the Tenants a number of opportunities to participate in the move out inspection, but the Tenants did not participate. The Tenants gave the Landlord a forwarding address by email on July 5, 2013.

The Landlord said that the Tenant did not pay utilities in the amount of \$197.96 and when the Tenants moved out the unit was in very poor condition. The Landlord said she is claiming the following expenses to bring the unit back to a rentable condition.

1. Replace cover plate	\$ 3.91
2. Kitchen sink repair	\$ 65.00
3. Blind replacement	\$ 72.72
4. Dump fees	\$ 16.00
5. Landlord labour	\$ 80.00

Total	\$ 237.63
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The Landlord provided the condition inspection reports, paid receipts and photographs to support her claims.

The Landlord also requested the recovery of the filing fee of \$50.00 if her application is successful.

Analysis

Section 26 says 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.

Further Section 46 of the Act says that if utilities are to be paid by the tenant and are not paid within 30 days after the tenant receive formal notice to pay the utilities then the utilities are treated as unpaid rent.

I accept the Landlord's testimony and evidence that the Tenants' have unpaid utilities in the amount of \$197.96. The Tenant does not have the right under the Act to withhold part or all of the rent or utilities; therefore I find the Tenants are responsible for the unpaid utilities in the amount of \$197.96. I award the Landlord \$197.96 for unpaid utilities.

For a monetary claim for damage of loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

The Landlord proved the loss existed and she verified the losses by providing receipts for the claims that the Landlord has made. I accept the Landlord testimony that these damages and losses were caused by the Tenants and the costs were reasonable amounts to make repairs to the unit. Consequently, I find the Landlord has established grounds to be awarded the costs for the following:

1. Replace cover plate	\$ 3.91
2. Kitchen sink repair	\$ 65.00
3. Blind replacement	\$ 72.72
4. Dump fees	\$ 16.00
5. Landlord labour	\$ 80.00

Total	\$ 237.63
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As the Landlord has been successful in this matter, the Landlord is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep part of the Tenants' security deposit in payment of the Landlord's claims as follows:

	Unpaid Utilities	\$ 197.96
	Clean up and repairs costs	\$ 237.63
	Recover filing fee	\$ 50.00
	Subtotal:	\$485.59
Less:	Security Deposit	\$ 525.00
	Subtotal:	\$ 525.00
	Balance Owing to Tenants	\$ 39.41

Conclusion

I order the Landlord to retain \$485.59 of the Tenants security deposit for cleaning and repairs to the rental unit.

I order the Landlord to return \$39.41 of the Tenants' security deposit to the Tenants forth with.

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 29, 2013

Residential Tenancy Branch

