



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for unpaid rent and for damage to the unit, site or property pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:43 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The female landlord (the landlord) attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that this tenancy ended when the tenant left a note for the landlords on the table of the rental unit on June 14, 2013, advising them that he had ended his tenancy. The landlord said that she sent a copy of the landlords' dispute resolution hearing package to the tenant at the address the tenant had provided to them on June 14, 2013 by registered mail on June 26, 2013. The landlord provided a copy of the Canada Post Tracking Number and Customer Receipt to confirm this registered mailing. I am satisfied that the landlord served the hearing package to the tenant in accordance with the *Act*.

Issues(s) to be Decided

Are the landlords entitled to a monetary award for unpaid rent owing for June 2013?
Are the landlords entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Are the landlords entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This one-year fixed term tenancy starting on June 1, 2012 was scheduled to end on May 31, 2013. Monthly rent was set at \$2,100.00, payable in advance on the first of each month. The landlords continue to hold the tenant's \$1,050.00 security deposit paid on June 1, 2012.

The landlords applied for a monetary award of \$2,100.00, to compensate them for unpaid rent that was not paid by the tenant for June 2013, while he remained in possession of the rental unit.

Although the landlords were expecting the tenant to vacate the rental unit by May 31, 2013, the end date of the tenancy, the tenant did not surrender vacant possession of the rental unit until mid-June 2013. When the female landlord visited the rental unit on June 7, 2013, some of the tenant's belongings were still there. The tenant was still in the process of cleaning and painting the premises to repair damage that had arisen during this tenancy. He was no longer living there by that time. The tenant contacted the landlord on June 14, 2013 to arrange for the handover of his keys to the landlords. When the landlords took possession of the rental unit in mid-June, the premises were still not cleaned, nor was the painting completed. The landlord testified that some of the tenant's personal possessions, mail, belongings and garbage remained on the property.

The landlord testified that she had to retain painters to complete the work that the tenant had started. She said that she had to clean up the damage arising from this tenancy and that there was no way that this rental unit could be prepared for another tenant's occupancy for any portion of June 2013. She testified that she was able to locate a new tenant who took occupancy as of August 1, 2013.

Analysis

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply. There is undisputed evidence that the tenant did not pay any rent for June 2013, but remained in possession of the rental unit for a significant portion of that month while he undertook repairs and cleaning. As such, the landlords are entitled to compensation for unpaid rent they incurred as a result of the tenant's failure to comply with the terms of their tenancy agreement and the *Act*.

Section 7(2) of the *Act* places a responsibility on a landlord claiming compensation for loss resulting from a tenant's non-compliance with the *Act* to do whatever is reasonable to minimize that loss. I accept that the landlords were in no position to re-rent the premises for June 2013, as the tenant remained in possession of the rental unit for

much of that month and did not fully clean or repair the premises when he did yield possession to the landlords. I am satisfied that the landlords have discharged their duty under section 7(2) of the *Act* to minimize the losses.

For these reasons, I find that the landlords are entitled to a monetary award of \$2,100.00 in unpaid rent for June 2013. I allow the landlords to retain the tenant's security deposit in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period on the security deposit. I allow the landlords to recover their filing fee from the tenant.

Conclusion

I issue a monetary Order in the landlords' favour under the following terms, which allows the landlords to recover unpaid rent and their filing fee for this application and to retain the tenant's security deposit:

Item	Amount
Unpaid June 2013 Rent	\$2,100.00
Less Security Deposit	-1,050.00
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$1,100.00

The landlords are provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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

