



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNDC, MNSD, FF

Introduction

This is an application filed by the Landlord for a monetary claim for damage to the unit, site or property, for unpaid rent or utilities, for money owed or compensation for damage or loss, to keep all or part of the security deposit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the submitted documentary evidence, I am satisfied that both parties have been properly served.

Both parties confirmed that the Landlord has failed to submit copies of the invoices/receipts for the costs claimed to the RTB and the Tenant.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security deposit?

Background and Evidence

This Tenancy began on July 2, 2009 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$925.00 payable on the 1st of each month and a security deposit of \$462.50 was paid on July 1, 2009. A condition inspection report was completed by both parties for the move-in on July 3, 2009. No condition inspection report was completed. The Landlord made an incomplete condition inspection report on August 10, 2013 in absence of the Tenant after attempts were made to schedule a date for the condition inspection report for the move out and a notice of a final opportunity was made on August 15, 2013.

The Landlord seeks a monetary claim for \$7,832.00 for damage to the rental unit. During the hearing the Landlord reduced his claim against the paint/labour by \$800.00 and \$2,000.00 for carpeting costs. Clarification with both parties confirmed that the Landlord's monetary claim is now, \$5,032.00. The Tenant disputes all of the claims stating that it is "outpriced". The Landlord has provided a listing of the monetary claim, but has not provided any invoices or receipts.

\$2,175.54 Paint/wall repair
\$2,100.62 flooring materials
\$1,800.00 flooring labour
\$279.89 Replace a damaged window
\$467.04 Replace 3 new doors
\$275.00 Used fridge
\$138.38 Replaced mirror cabinet
\$169.16 New baseboards
\$62.30 Replace damaged shower/faucet
\$89.43 Replace damaged sink parts
\$165.33 Replace damaged bathroom exhaust fan/parts
\$39.15 Replace damaged toilet seat/window lock/parts
\$194.81 Replace ruined carpet underlay
\$175.00 carpet stairs installation
\$22.78 Replace deadbolts/parts
\$26.20 Paint/supplies
\$47.02 Replace Towel bar/TP holder
\$100.00 Cleaning Team
\$146.27 Various- Cleaning Supplies, photocopies, light bulbs, postage, scraper blades, mailbox.
\$190.00 Casual Labour-Flooring, painting, disposal, etc.

Total Damages, \$8,759.92

\$965.00 August unpaid rent
\$965.00 September unpaid rent
\$300.00 washing machine disposal
\$250.00 dryer machine disposal

Total unpaid rent and disposal costs, \$2,480.00

Monetary Claim reduced by Landlord to \$8,439.92

Both parties confirmed that the age of the carpets are atleast 7 ½ years old. The Tenant claims that some of the photos were taken before the end of the tenancy and that they are not an accurate reflection of the rental unit. The Landlord has admitted that some of the photographs submitted do not accurately reflect the condition of the rental space at the end of the tenancy.

Analysis

Section 72 of the Act addresses **Director's orders: fees and monetary order**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, the Landlord's claim for recovery of litigation costs(postage, photocopies, postage) are dismissed.

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. In this case, the Landlord bears the burden. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

It is clear based upon the testimony of both parties that the Tenant has admitted to 2 broken doors, that there were holes caused by the co-tenant during the tenancy and that there were stains in the carpet. The Landlord has provided sufficient evidence of partial damage that was caused by the Tenant based upon the Tenant's admissions, but has failed to provide proof of an actual amount required to compensate for the claimed losses (ie. invoices/receipts). As the Tenant has repeatedly claimed that the Landlord's claims are "outpriced", I find that the Landlord has failed in his application to establish the claim for the amount applied for. However, as the Tenant has admitted to causing damage to the rental, I find that a nominal award is warranted. I grant the Landlord a nominal award for \$1,200.00 for damage.

As for the Landlord's claim for unpaid rent, I find based upon the Tenant's direct testimony that August rent of \$965.00 was unpaid and that the Landlord suffered a loss of rental income of \$965.00 for September that required repairs that prevented the unit from being re-rented. The Landlord has established monetary claim for unpaid rent/ loss of rental income of \$1,930.00.

The Landlord has established a total monetary claim for \$3,130.00. The Landlord is also entitled to recovery of the \$100.00 filing fee. I order that the Landlord retain the \$462.50 security deposit in partial satisfaction of the claim and I grant a monetary order for the balance due of \$2,767.50. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted a monetary order for \$2,767.50.
The Landlord may retain the \$462.50 security deposit.

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: December 05, 2013

Residential Tenancy Branch

