



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MND, MNDC, MNSD, FF

Introduction

This Dispute Resolution hearing was set to deal with an Application by the landlord for a monetary order for damage or loss under the Act.

Despite being served by registered mail sent on November 8, 2013, the respondent did not appear.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for damages or loss pursuant to section 67 of the Act?

Background and Evidence

The tenancy began on August 1, 2013 and ended on October 31, 2013. The rent was \$775.00 per month and the tenant paid a security deposit of \$400.00 and pet damage deposit of \$100.00, both of which were refunded to the tenant on November 8, 2013.

The landlord testified that when the tenant vacated, they discovered that the tenant had damaged the rental unit by painting it in a manner that required the landlord to repair, patch and paint the unit at a cost of \$1,200.00. The landlord submitted photographic evidence showing that areas of the unit were covered with streaks and drips from paint, much of which was in vivid shades of pink. The photos also show that other areas in the rental unit were left partly painted with obvious intermittent discoloured patches as well as over-painting in corners, along baseboards, trim, outlets and adjacent ceilings.

The landlord testified that the tenant also glued a wallpaper border that damaged the wall when attempts were made to remove it. The landlord pointed out that some areas had to be patched and the entire unit had to be repainted.

The landlord submitted an invoice into evidence listing the tasks and showing the cost to be \$1,200.00 for the repainting. And this amount is being claimed.

No copies of the tenancy agreement, nor the move-in and move-out condition inspection reports were in evidence.

Analysis

With respect to an Applicant's right to claim damages from another party, Section 7 of the Act states that if a landlord or tenant does not comply with the Act, the regulations or the tenancy agreement, the non-complying party must compensate the other for losses that result. Section 67 of the Act grants an arbitrator the authority to determine the amount of compensation, and to order payment, under these circumstances.

It is important to note that in a claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof and the evidence furnished by the applicant must satisfy each component of the test below:

Test For Damage and Loss Claims

1. Proof that the damage or loss exists,
2. Proof that this damage or loss happened solely because of the actions or neglect of the Respondent in violation of the Act or agreement,
3. Verification of the actual amount required to compensate for the claimed loss or to rectify the damage, and
4. Proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage.

In this instance, the burden of proof is on the landlord, to prove the existence of the damage/loss and that it stemmed directly from a violation of the agreement or a contravention of the Act on the part of the respondent.

Section 37 of the Act Section 37(2) of the Act also states that, when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. I accept that the tenant did not comply with this section of the Act and that the landlord suffered a loss as a result.

Given the above, I accept the landlord's undisputed testimony supporting the monetary claim for damages. Based on the evidence and testimony before me, I find that the landlord is entitled to total compensation of \$1,250.00, comprised of \$1,200.00 for the cost of patching and repainting the unit and the \$50.00 cost of the application.

I hereby grant the landlord a Monetary Order in the amount of \$1,250.00. This order must be served on the tenant, and may be enforced through an order from Small Claims Court if not paid.

Conclusion

The landlord is successful in the application and is granted a monetary order for the cost of repainting.

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: February 19, 2014

Residential Tenancy Branch

