



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Widelink Realty Corp
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MND, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for unpaid rent or utilities; a Monetary Order for damage to the unit, site or property; for an Order permitting the landlord to keep all or part of the tenant's security and pet deposit; and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served by registered mail on October 10, 2013. Canada Post tracking numbers were provided by the landlord in documentary evidence. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord's agent appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent or utilities?
- Is the landlord entitled to a Monetary Order for damage to the unit, site or property?
- Is the landlord permitted to keep all or part the security and pet deposits?

Background and Evidence

The landlord's agent testifies that this tenancy started on September 01, 2012 for a fixed term of one year. The tenant vacated the rental unit on September 30, 2013 with the agreement of the landlord. Rent for this unit was \$3,980.00 per month and was due on the 1st day of each month in advance. The tenant paid a security deposit of \$1,990.00 and a pet deposit of \$1,990.00 on August 13, 2012. The landlord has provided a copy of the tenancy agreement in evidence.

The landlord's agent testifies that the tenant was responsible for all utilities. The tenant failed to pay the water utility bill for \$1,160.00. The landlord has provided a copy of this bill in evidence and seeks to recover his amount from the tenant.

The landlord's agent testifies that they informed the tenant that they would do the move out inspection on September 30, 2013 by 1.00 p.m. However the tenant was not available and a new time was arranged to do the inspection for October, 01, 2013. Both parties did attend this inspection although the tenant would not agree to sign the inspection report. The tenant did provide a forwarding address in writing on that day. The landlord seeks to recover one day of rent for October 01 2013 of \$128.00.

The landlord testifies that the landlord and tenant attended a move in condition inspection of the property at the start of the tenancy and signed to agree that everything was good in the rental unit and property. At the end of the tenancy the landlord found

some deficiencies and seeks to recover the cost of rectifying these from the tenant. The landlord seeks the following amounts:

- Carpet cleaning for three bedrooms estimated as \$207.20. One carpet was left stained and the tenant provided no evidence to show the other carpets had been cleaned. The actual amount for carpet cleaning was \$147.00 however the landlord's agent has not provided a copy of the invoice in evidence.
- Replacement of 30 light bulbs at \$145.60; the landlords agent testifies that the tenant would not replace burnt out light bulbs and the move out inspection report indicates that there are 29 light bulbs burnt out throughout the unit. The landlord paid a company \$145.60 to replace the bulbs which totaled 30 bulbs. An invoice has been provided in evidence for materials and labour.
- The tenant failed to clean the pool, the hottub and the surrounding areas. The pool was left very green and there was dog feces left in the surrounding area along with leaves and garden debris. It appears that no pool or hottub maintenance was preformed towards the end of the tenancy. The landlord has provided photographic evidence and this is also documented on the move out inspection report. The landlord seeks \$425.60 but has failed to provide an invoice for cleaning these areas in evidence.
- The tenant was responsible to maintain the front and back yards. The tenant did do work during the tenancy. However nothing appears to have been done to maintain these areas at the end of the tenancy as shrubs were not trimmed, the grass was uncut and weeding and general cleanup was not done. The landlord seeks to recover \$392.00 for this work but has not provided an invoice in evidence.

- The tenant damages a ledge in the garage. The landlord's agent testifies that they estimate that this repair will be \$134.40 but have provided no evidence to support this.
- The tenant was provided with three keys at the start of the tenancy which was documented and signed for by the tenant. Only two keys were returned when the tenancy ended. The landlord seeks to recover the amount of \$120.00 to rekey the main entrance door lock. The landlord has not provided an invoice for this work.

The landlord seeks an Order to permit the landlord to keep the amount of \$2,762.80 from the security and pet deposit in satisfaction of their claim.

Analysis

The tenant did not appear at the hearing to dispute the landlord's claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant/landlord, I have carefully considered the landlord's documentary evidence and sworn testimony before me.

With regard to the landlord's claim for unpaid rent for one day; if the tenant vacated the rental unit on September 30, 2013 and the landlord agreed to another mutually convenient date to do the move out inspection, before new tenants moved into the unit, then the landlord cannot recover unpaid rent for this day as they agreed to do the inspection on October 01, 2013. Consequently, the landlord's claim for unpaid rent is denied.

With regard to the landlord's claim to recover the utility bill of \$1,160.00; the tenancy agreement clearly states that utilities including water are not included in the rent.

Therefore the tenant is responsible to pay the water bill and not the landlord. It is my decision that the landlord has established a claim for the unpaid water bill of **\$1,160.00**.

With regard to the landlord's claim for damage to the unit, site or property; I have applied a test used for damage or loss claims to determine if the claimant has met the burden of proof in this matter:

- Proof that the damage or loss exists;
- Proof that this damage or loss happened solely because of the actions or neglect of the respondent in violation of the Act or agreement;
- Verification of the actual amount required to compensate for the claimed loss or to rectify the damage;
- Proof that the claimant followed S. 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 claimant to prove the existence of the damage or loss and that it stemmed directly from a violation of the agreement or contravention of the Act on the part of the respondent. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. Finally it must be proven that the claimant did everything possible to address the situation and to mitigate the damage or losses that were incurred.

The landlord has shown that the unit was in a good condition at the start of the tenancy. A tenant is required to clean carpets when a tenancy extends over a year and the landlord has established that the tenant did not clean the three bedroom carpets. However, the landlord has not provided an invoice for carpet cleaning to establish the actual cost of carpet cleaning. Consequently, I must limit the landlords claim to **\$100.00**.

The landlord has provided evidence to support their claim that the tenant did not replace the burnt out light bulbs. The invoice provided shows the actual amount charged to the

landlord for new light bulbs and labour to fit them. Consequently, the landlord has established a claim to recover the amount of **\$145.60**.

I find the tenant was responsible for pool, hottub and yard maintenance. However the landlord's evidence shows that this work was not completed at the end of the tenancy leaving the pool water and surrounding areas in an unclean condition. However, the landlord has not provided an invoice showing the actual cost to rectify this damage. Consequently, I must limit the landlords claim to **\$215.00**. Furthermore, the landlord has established that the tenant did not maintain the front and back yards at the end of the tenancy. However, the landlord has failed to provide an invoice for that work. The landlord claim for \$392.00 is therefore limited to **\$150.00**.

I am satisfied with the evidence before me that the ledge in the garage was likely to have been damaged by the tenant during the tenancy as the tenant agreed that the unit was in a good condition at the start of the tenancy. However, the landlord has provided insufficient evidence to support their claim that this will cost \$134.40 to repair. Therefore I find I must limit the landlords claim to **\$65.00**.

At the start of the tenancy the tenant was issued with three keys as documented by the landlord. At the end of the tenancy only two keys were returned and the landlord is entitled to recover costs to rekey the lock. However the landlord has provided insufficient evidence to show that this work cost \$120.00. I must therefore limit the landlords claim to **\$60.00**.

I Order the landlord to retain a portion of the security and pet deposit in final settlement of the landlords monetary award. The landlord is also entitled to recover the filing fee of **\$50.00** from the tenant pursuant to s. 72(1) of the *Act*. The landlord may retain the following amounts pursuant to s. 38(4)(b) of the *Act*:

Utility bill	\$1,160.00
Repairs and cleaning	735.60

Filing fee	\$50.00
Amount awarded to the landlord	\$1,945.60
Less security and pet deposit	(-\$3,980.00)
Amount of deposits to be returned to the tenant	\$2,034.40

Conclusion

I HEREBY FIND in partial favor of the landlord's monetary claim. The landlord is permitted to retain the sum of \$1,945.60 from the tenant's security and pet deposit. The balance of the deposits must be returned to the tenant.

A copy of the tenant's decision will be accompanied by a Monetary Order for \$2,034.40. The Order must be served on the landlord. Should the landlord fail to comply with the Order the Order may be enforced through the Provincial Court 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: January 13, 2014

Residential Tenancy Branch

