



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MND, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession for cause; for a Monetary Order for damage to the unit, site or property; for an Order permitting the landlord to keep all or part of the tenants security 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 December 27, 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 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.

At the outset of the hearing the landlord advised that the tenant is no longer residing in the rental unit, and therefore, the landlord withdraws the application for an Order of Possession.

Issue(s) to be Decided

- 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 of the tenant's security deposit?

Background and Evidence

The landlord testifies that this tenancy started on May 01, 2013 for a month to month tenancy. Rent for this unit was \$750.00 per month and was due on the 31st of each month in advance. The tenant paid a security deposit of \$375.00 on May 01, 2013. A copy of the tenancy agreement has been provided in documentary evidence. The landlord testifies that the tenant did not inform the landlord when they were moving out but the landlord was notified by other tenants that a moving truck was at the unit on February 01, 2014.

The landlord testifies that the tenant had allowed other people to live in the rental unit. The tenant's front bedroom window had steel security bars fitted to the inside of the window and the shared laundry room had steel security bars fitted to the outside of the window. Both sets of bars were set in concrete around the windows. The tenant or persons allowed on the property by the tenant had torn of these bars and they have been discarded at the outside of the unit. The laundry room security bars have been left damaged and the concrete holes the bars were fitted into are also damaged.

The landlord testifies that they think the laundry room security bars were removed by the tenant or the tenant's guests as the tenant's guests have been seen accessing the tenant's unit through this window. The landlord testifies that the security bars were three years old and it would cost \$325.00 to replace the laundry room bars, the other security bars for the tenants window may be able to be repaired and replaced on the window and the concrete surrounding the window will need to be repaired to reset the security

bars. The landlords seek to recover \$400.00 for this work and replacement security bars.

The landlord seeks an Order to be permitted to keep the security deposit to offset against the monetary claim. The landlord also seeks to recover the \$50.00 filing fee from the tenant.

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, I have carefully considered the landlords documentary evidence and undisputed sworn testimony before me.

The landlord has provided photographic evidence of the tenant's window and laundry room window and of the damaged security bars. Consequently, I find the tenant is responsible for the actions of her guests and should have ensured that any damage to the unit or common areas that was caused by either the tenant or the tenant's guests was repaired at the end of the tenancy pursuant to s. 32 of the *Act*. As the tenant did not repair this damage I find the landlord is entitled to recover some cost towards this repair. However, the landlord has not met the burden of proof with regards to the actual cost to replace the security bars. Consequently I must limit the landlords claim in this matter. I have also taken into account some depreciation of the security bars as they are three years old and the useful life would be approximately 15 years. I therefore find the landlord is entitled to an amount of **\$250.00** for the damage to the security bars and **\$75.00** to repair the concrete and reset the bars.

I find the landlord is entitled to recover the filing fee of **\$50.00** pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY FIND in partial favor of the landlord's monetary claim. I Order the landlord to retain the security deposit of **\$375.00** in satisfaction of this claim pursuant to s. 38(4)(b) of the *Act*.

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 07, 2014

Residential Tenancy Branch

