



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MND, MNR, FF

Introduction

This hearing was convened in response to cross-applications by the parties for dispute resolution. The tenant filed their application January 16, 2014 pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. An Order to cancel an Notice to End Tenancy for unpaid rent - Section 46
2. A Monetary Order damage or loss – Section 67
3. Cost of emergency repairs – Section 67
4. Allow a tenant to reduce rent – Section 65
5. An Order to recover the filing fee for this application(\$100) - Section 72.

The landlord filed their application February 17, 2014 pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. A Monetary Order for unpaid rent – Section 67
2. An Order to retain the security deposit to offset damages - Section 38
3. An Order to recover the filing fee for this application (\$100) - Section 72.

The applicant tenant was provided with a copy of the Notice of a Dispute Resolution Hearing after filing their application dated January 16, 2014. The tenant, however, did not attend the hearing set for today at 11:00 a.m. The phone line remained open for the duration of the hearing and was monitored throughout this time. The only party to call into the hearing was the landlord. As a result, the tenant's application is **dismissed**, without leave to reapply.

The landlord was given full opportunity to be heard, to present evidence and to make submissions. The landlord testified they provided the tenant with a copy of their document evidence as submitted to this hearing. They testified the tenant did not send them evidence and none has been submitted to this hearing.

Issue(s) to be Decided

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The undisputed evidence is as follows. The tenancy began on August 01, 2012 and the tenant vacated near the end of January 2014. According to the tenancy agreement rent in the amount of \$3200.00 was payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$1600.00 which they retain in trust. The tenant failed to pay rent in the month of January 2014 and on January 13, 2014 the landlord served the tenant with a notice to end tenancy for non-payment of rent (the Notice) by posting it on the tenant's door. The landlord's evidence is that the tenant received the Notice no later than January 15, 2014, with an effective date of January 25, 2014. The tenant failed to dispute the Notice to end the tenancy, but determined instead to act on the Notice and vacate the rental unit. The tenant did not pay the outstanding rent. The quantum of the landlord's monetary claim is for the unpaid rent for January and February 2014.

The landlord claims that the tenant did not notify the landlord when they were vacating but that they attempted to conduct a mutual inspection with the tenant inside the first week of February 2014, to no avail. As a result, the landlord conducted an inspection on their own and completed a condition inspection report identifying some deficiencies in the unit beyond the scope of wear and tear.

The landlord is claiming for damages, by way of their costs to re-key the rental unit in the submitted invoiced amount of \$319.27. The landlord further seeks a total of \$275.00 to mitigate damage to a bi-fold door, as well as a total of \$274.08 for a broken laundry machine glass door. The landlord submitted document and photographic evidence of same.

Analysis

Based on the landlord's testimony and undisputed evidence I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid the outstanding rent and despite applying for Dispute Resolution to dispute the notice to end the tenancy the tenant vacated within days of the effective date of the Notice. I find that the landlord has established a monetary claim for the unpaid rent for January 2014. I find the tenant vacated in accordance with the landlord's Notice to end and was not required to provide the landlord with their own Notice to end the tenancy. The landlord effectively obtained the result they sought in issuing the Notice to end for unpaid rent and is entitled to the unpaid rent but no further compensation beyond the month of the unpaid rent. As a result, the landlord is awarded the unpaid rent for January 2014 in the amount of **\$3200.00**.

In respect to the landlord's claim for damages, I accept the landlord's testimony and documentary evidence submitted as establishing that they incurred the costs and loss claimed and that they are entitled to compensation in the claimed sum amount of **\$868.35**. As the landlord has been partially successful in their claim, I find the landlord is also entitled to partial recovery of the filing fee in the amount of **\$50.00**. The security deposit held in trust will be off-set from the total award made herein.

Calculation for Monetary Order

Unpaid rent for January 2014	3200.00
Damages - sum	868.35
Filing fees	50.00
Less Security Deposit	-1600.00
Total Monetary Award to landlord	\$ 2518.35

It must be noted that the landlord acknowledges that they may not re-apply for additional compensation for damages and that awards for damages are granted *without leave to reapply*.

Conclusion

The tenant's application **is dismissed**, without leave to reapply. The landlord's application, in part, has been granted.

I Order that the landlord retain the security deposit of \$1600.00 in partial satisfaction of their claim and I grant the landlord an Order under Section 67 of the Act for the balance due of **\$2518.35**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

This Decision is final and binding on both parties.

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: March 04, 2014

Residential Tenancy Branch

