



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPRIET
and [tenant name suppressed to protect privacy]

DECISION

Code MNDC, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for unpaid rent, for damages to the unit and an order to retain the security deposit in partial satisfaction of the claim.

The landlord's agent attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord's agent testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on December 30, 2013, a Canada post tracking number was provided as evidence of service.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act.

The landlord's agent appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to monetary compensation for damages?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on July, 1, 2011. Rent in the amount of \$1,161.67 was payable on the first of each month.

On October 30, 2013, the landlord's previous application for dispute resolution seeking an order of possession and a monetary order for unpaid rent was heard. The Arbitrator granting the landlord an order of possession and a monetary order for unpaid rent for October 2013, the landlord was authorized to retain the tenant's security deposit in partial satisfaction of the claim.

The landlord claims as follows:

a.	Unpaid rent for November 2013	\$ 1,161.67
b.	Unreturned laundry card	\$ 20.00
c.	Cleaning	\$ 180.00
d.	Carpet damage	\$ 750.00
e.	Furniture removal and disposal	\$ 75.00
f.	Filing fee	\$ 50.00
	Total claimed	\$ 2,236.67

Unpaid rent for November 2013

The landlord's agent testified that the tenant remained in the rental unit for the full month of November 2013, without paying rent. The landlord seeks to recover unpaid rent in the amount of \$1,161.67.

Unreturned laundry card

The landlord's agent testified the tenant failed to return the laundry card at the end of the tenancy. The agent stated that they seek to recover the replace cost of the card is the amount of \$20.00.

Cleaning

The landlord's agent testified that the tenant did not leave the rental unit reasonable cleaned, as all the appliances, floors, interior and exterior of the kitchen cupboards and walls had to be cleaned. The landlord's agent stated the tenant had also had two dogs and there was a lot of dog hair in the heating vent. The landlord seeks to recover the time they spent cleaning the unit in the amount of \$180.00. Filed in evidence are photographs of the rental unit which support the landlord's position.

Carpet damage

The landlord's agent testified that the carpets were replaced in the rental unit in 2009. The agent stated that they had to replace the carpets after the tenant vacated, as the tenant had two dogs and the carpets were so dirty it would have been impossible to clean.

The landlord stated that they had the carpets replaced on December 12, 2013, and the cost was \$1,590.00 plus taxes. The landlord stated that they have depreciated the value of the carpet and seek to recover the amount of \$750.00. Filed in evidence are photographs of the carpets.

Furniture removal and disposal

The landlord's agent testified the tenant left a dining room table in the rental unit at the end of the tenancy. The agent stated that they had to remove the table and then pay to have it disposed of. The landlord seeks to recover their labour cost and the disposal cost in the amount of \$75.00. Filed in evidence is a photograph of the table.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities.

To prove a loss and have one party pay for the loss requires the claiming party to prove four different elements:

- Proof that the damage or loss exists;
- Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act or agreement;
- Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
- Proof that the Applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Unpaid rent for November 2013

Section 26 of the Residential Tenancy Act states:

26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The evidence of the landlord's agent was the tenant remained in the rental unit for the month of November 2013 and did not pay rent. I find the tenant has breached section 26 of the Act when they failed to pay rent when due under the tenancy agreement and this has caused losses to the landlord. Therefore, I find the landlord is entitled to recover unpaid rent for November 2013, in the amount of **\$1,161.67**

Unreturned laundry card

I accept the undisputed testimony of the landlord's agent that the tenant failed to return the laundry card at the end of the tenancy. I find the tenant breached the Act, when they failed to return the laundry card and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover the replacement cost of the card in the amount of **\$20.00**.

Cleaning

Section 37 of the Residential Tenancy Act states:

37 (2) 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 the undisputed testimony of the landlord's agent that the tenant did not clean the rental unit to a reasonable standard as this is supported by photographs. I find the tenant breached the Act, when they failed to reasonable clean the rental unit and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover the cleaning cost in the amount of **\$180.00**.

Carpet damage

I accept the undisputed testimony of the landlord's agent that the tenant caused damage to the carpets. The photographs show areas in the carpet that are blackened, by what the landlord's agent alleged were stains from the tenant's dogs. I find the tenant breached the Act, when they failed to repair the carpet and this caused losses to the landlord. As the landlord has already applied the depreciated value of the carpet, I find the landlord is entitled to recover the amount of **\$750.00**.

Furniture removal and disposal

I accept the undisputed testimony of the landlord's agent that the tenant left behind a dining room table. This is supported by the photograph. I find the tenant breached the Act, when they failed to remove their belonging from the rental unit and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover labour cost and disposal fees in the amount of **\$75.00**.

Conclusion

I find that the landlord has established a total monetary claim of **\$2,236.67** comprised of the above described amounts and the \$50.00 fee paid for this application.

This order may be filed in the Provincial Court (Small Claims) and enforced 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: April 16, 2014

Residential Tenancy Branch

