



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1811 Adanac Street Ltd. C/O Gateway Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for unpaid rent and for damage to the unit pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:42 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord's agent (the landlord) attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord testified that on January 16, 2014, she sent a copy of the landlord's dispute resolution hearing package and written and photographic evidence package to the tenant at the forwarding address provided by the tenant by registered mail. She testified that this registered mail has not been returned to the landlord. Based on the undisputed sworn testimony of the landlord and pursuant to sections 89(1) and 90 of the *Act*, I find that the tenant was deemed served with the above-noted packages on January 21, 2014, the fifth day after its registered mailing.

At the hearing, the landlord testified that she returned \$300.20 from the tenant's security deposit within 15 days of the end of this tenancy. She requested authorization to retain only the \$382.00 remaining from the tenant's security deposit. The landlord reduced the amount of her requested monetary award from \$392.00 to \$382.00.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security deposit

in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

On June 14, 2011, the parties signed a one-year fixed term tenancy agreement that commenced on July 1, 2001. At the expiration of the initial term, the tenancy continued as a periodic tenancy. Monthly rent by the end of this tenancy was set at \$1,477.00, payable in advance on the first of each month. As noted above, the landlord continues to hold \$382.00 of the tenant's original \$682.50 security deposit paid on July 11, 2011.

The landlord entered into written evidence a statement maintaining that this tenancy ended by January 1, 2014, by which time the tenant had abandoned the rental unit, leaving the key under the door. The landlord received the tenant's forwarding address by text message the following day.

The landlord's original application for a monetary award of \$392.00 included the following items:

Item	Amount
Unpaid Rent owing at the end of this Tenancy	\$82.00
Carpet Cleaning	60.00
Garbage Removal	100.00
Cleaning	100.00
Recovery of Filing Fee for this Application	50.00
Total of Above Items	\$392.00

The landlord entered into written evidence copies of the signed joint move-in condition inspection report of July 12, 2011, as well as the landlord's own move-out condition inspection report of January 2, 2014, conducted after the tenant abandoned the rental unit. The landlord also provided copies of invoices and photographs of the condition of the rental unit at the end of this tenancy. The photographs showed many items left behind by the tenant at the end of this tenancy, and evidence of the landlord's assertion that cleaning needed to be undertaken to ready the unit for rental to someone else.

Analysis

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply. Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage

or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must 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 other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

Based on the landlord's undisputed written evidence, including a comprehensive tenant rent ledger for this tenancy, I find that the landlord is entitled to a monetary award of \$82.00 for unpaid rent owing from this tenancy.

I also find that a comparison of the condition of the rental unit at the beginning of this tenancy as outlined in the joint move-in condition inspection report signed by the tenant and the landlord's move-out condition inspection report shows that the landlord is entitled to a monetary award for the damage identified in the landlord's application. I find that the landlord is entitled to a monetary award of \$60.00 for carpet cleaning, \$100.00 for garbage removal, and \$100.00 for cleaning the rental unit. As the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee from the tenant.

In accordance with the landlord's request to retain only that portion of the tenant's security deposit currently held by the landlord, I order the landlord to retain the remaining \$380.00 of the tenant's security deposit. No interest is payable.

Conclusion

I order the landlord to retain the remaining \$380.00 of the tenant's security deposit still held by the landlord. This order enables the landlord to recover unpaid rent, damage and the landlord's filing fee for this application. 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: May 01, 2014

Residential Tenancy Branch

