



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MND, MNR, MNSD, MNDC, FF

Introduction

This Dispute Resolution hearing was set to deal with an Application by the landlord for 2 months loss of rent and the costs of cleaning the suite and carpets.

The landlord was present. Despite being served by registered mail sent on March 10, 2014, as confirmed by Canada Post tracking numbers, the tenant did not appear.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation under section 67 of the *Act* for loss of revenue and cleaning?

Background

The landlord testified that the tenancy began on October 1, 2013 for a one-year fixed term and rent was \$700.00. A \$350.00 security deposit was paid. According to the landlord, the tenancy ended on January 31, 2014, when the tenant vacated without Notice..

A copy of the tenancy agreement is in evidence. No copies of any move-in and move-out condition inspection reports were submitted. However, the landlord submitted photos of the unit and copies of invoices evidence.

The landlord testified that at the time the tenant left, the tenant did not leave the rental unit reasonably clean as required under the *Act* and neglected to shampoo the carpets.

The landlord is claiming compensation of \$75.00 for general cleaning and \$96.60 for cleaning the carpets.

The landlord testified that, despite marketing the unit, they incurred a loss of revenue for the months of February and March 2014 and the landlord is seeking compensation of \$700.00 for each of the two months that the unit was vacant. No copies of

advertisements were in evidence. However the landlord testified that they did take steps to mitigate the losses and the unit was finally re-rented for April 2014.

The landlord's total monetary claim is for \$1,621.60, plus the \$50.00 cost of filing.

Analysis:

I find that, an applicant's right to claim damages from another party is dealt with under section 7 of the Act which states that if a landlord or tenant does not comply with the Act, the regulations or the tenancy agreement, the non-complying party must compensate the other for damage or loss that results. Section 67 of the Act grants an Arbitrator the authority to determine the amount and to order payment under these circumstances.

Test For Damage and Loss Claims

1. Proof that the damage or loss exists,
2. Proof that this damage or loss happened solely because of the actions or neglect of the Respondent in violation of the Act or agreement,
3. Verification of the actual amount required to compensate for the claimed loss or to rectify the damage, and
4. Proof that the claimant followed section 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 landlord, to 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 respondent.

In regard to the cleaning and repairs, I find that under section 37(2) of the Act the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear when a tenant vacates a rental unit.

Based on the evidence before me, I find that the landlord's undisputed claims for \$75.00 for cleaning and \$96.60 for carpet cleaning have successfully met each of the four elements of the test for damages and the landlord is entitled to total cleaning and carpet cleaning compensation of \$171.60.

In regard to the landlord's claim for loss of rent under the fixed term contract, I find that section 62 (1) of the Act grants a Dispute Resolution Officer the authority to determine any disputes in relation to matters that arise under the Act or a tenancy agreement.

In the case before me, the landlord is claiming damages for breach of the agreement due to the tenant's action in terminating the tenancy prior to the expiry date. I accept that the landlord incurred a loss of two month's rent.

However, in order to satisfy element 4 of the test for damages, the landlord must be prepared to prove that they took reasonable steps to minimize the loss. Although the landlord gave verbal testimony that the vacancy was advertised beginning on February 1, 2014, just after they discovered that the tenant had moved out, I find that the landlord did not submit any evidentiary proof of this. For this reason, I dismiss the landlord's claim for loss of rent for the month of March 2014. I find that the landlord is entitled to the \$700.00 loss incurred for the month of February 2014.

Accordingly, I find that the landlord is entitled to total monetary compensation of \$921.60 comprised of \$171.60 for cleaning, \$700.00 loss of revenue for February 2014 and the \$50.00 cost of the application. I hereby order the landlord to retain the tenant's \$350.00 security deposit and issue a monetary order for the remainder of \$571.60.

This order must be served on the tenant in accordance with the Act and if necessary can be enforced through Small Claims Court.

Conclusion

The landlord is successful in the application and is granted a monetary order for loss of revenue and cleaning.

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: June 23, 2014

Residential Tenancy Branch

