



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR FF

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution seeking remedy under the *Residential Tenancy Act* (the "Act"). The landlord applied for a monetary order for unpaid rent or utilities, for damage to the unit, site or property, to keep all or part of the security deposit and pet damage deposit, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the filing fee.

The landlord appeared at the teleconference hearing and gave affirmed testimony. During the hearing the landlord was given the opportunity to provide his evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), Application for Dispute Resolution (the "Application") and documentary evidence was considered. The landlord testified that the Notice of Hearing, Application and documentary evidence was served on the tenant by registered mail on February 7, 2014. The landlord provided a registered mail tracking number as evidence and confirmed that the name and address matched the name of the tenant and the forwarding address for the tenant which the landlord testified was received on February 7, 2014, by the sister of the tenant. According to the landlord, the registered mail package was signed for and accepted by the tenant on February 26, 2014, which is supported by the Canada Post online tracking website. Given the above, I find that the tenant was served with the Notice of Hearing, Application and documentary evidence on February 26, 2014.

Issues to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenant's security deposit and pet damage deposit under the *Act*?

Background and Evidence

The landlord submitted a copy of the tenancy agreement in evidence. A month to month, periodic tenancy agreement began on October 1, 2013. Monthly rent of \$850.00 was due on the first day of each month. The tenant paid a security deposit of \$425.00 and a pet damage deposit of \$425.00 at the start of the tenancy, which the landlord continues to hold.

According to the landlord, the tenant abandoned the rental unit on either January 5, 2014 or January 6, 2014. The landlord stated that the tenant abandoned the rental unit without providing any prior written notice to the landlord. The landlord is seeking unpaid rent of \$850.00 for January 2014, plus \$40.00 for garbage removal costs.

The landlord stated that rent for January 2014 due on January 1, 2014 was never paid by the tenant. The landlord confirmed that the tenant then abandoned the rental unit on either January 5, 2014 or January 6, 2014. The landlord stated that the tenant left garbage at the rental unit and that he suffered a loss of \$40.00 for garbage dumping fees. The landlord provided two colour photos supporting that garbage was left at the rental unit, plus a landfill receipt in the amount of \$40.00 dated January 16, 2014.

Analysis

Based on the undisputed testimony of the landlord, the documentary evidence and on the balance of probabilities, I find the following.

Test for damages or loss

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;

2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

Landlord's claim for unpaid rent for January 2014 - I accept the undisputed testimony of the landlord that the tenant failed to pay rent on January 1, 2014 and that the tenant abandoned the rental unit on either January 5, 2014 or January 6, 2014. I find that the tenant breached section 26 of the *Act* that requires that a tenant pay rent when it is due in accordance with the tenancy agreement. Therefore, I find that the landlord has met the burden of proof and is entitled to **\$850.00** for unpaid January 2014 rent as the tenant was occupying the rental unit at the time that rent was due and abandoned the rental unit without prior written notice to end the tenancy in accordance with section 45 of the *Act*.

Landlord's claim for garbage removal – I accept the undisputed testimony of the landlord that the tenant left garbage at the rental unit when the tenant abandoned the rental unit. The landlord provided two colour photos showing garbage outside of the rental unit, and a landfill receipt for \$40.00 dated January 16, 2014. Based on the above, I find that the tenant breached section 37 of the *Act* which requires that the tenant leave the rental unit reasonably clean and undamaged, except for reasonable wear and tear, as the photos support that the rental unit was not left reasonably clean as required by the *Act*. Therefore, I find that the landlord has met the burden of proof and is entitled to **\$40.00** as compensation for the cost of garbage removal.

As the landlord's application had merit, I grant the landlord the recovery of the filing fee of **\$50.00**.

Monetary Order - I find that the landlord has established a total monetary claim in the amount of **\$940.00** pursuant to section 67 comprised of \$850.00 for unpaid rent, \$40.00 for garbage removal, plus the \$50.00 filing fee. **I ORDER** the landlord to retain the tenant's full security deposit of \$425.00 and the tenant's full pet damage deposit of \$425.00, neither of which has accrued interest since the start of the tenancy, in partial satisfaction of the landlord's monetary claim. **I grant** the landlord a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlord in the amount of **\$90.00**. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The landlord has established a total monetary claim in the amount of \$940.00 pursuant to section 67 comprised of \$850.00 for unpaid rent, \$40.00 for garbage removal, plus the \$50.00 filing fee.

The landlord has been ordered to retain the tenant's full security deposit of \$425.00 and the tenant's full pet damage deposit of \$425.00, neither of which has accrued interest since the start of the tenancy, in partial satisfaction of the landlord's monetary claim.

The landlord has been granted a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlord in the amount of \$90.00. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 4, 2014

Residential Tenancy Branch

