



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for loss of income, cost of cleaning and repairs and the filing fee. The tenant applied to set aside the notice to end tenancy, for a monetary order for the cost of some items that she alleges were taken by the landlord, for the return of the security deposit and for the recovery of the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. At the start of the hearing, the landlord informed me that the tenant had moved out. Therefore this hearing only dealt with the applications of both parties for monetary orders.

Issues to be decided

Is the landlord entitled to a monetary for loss of income and the cost of repairs and cleaning? Is the tenant entitled to the return of the security deposit and compensation for items that were allegedly taken by the landlord?

Background and Evidence

The tenancy started on January 20, 2013 and ended on May 31, 2014. Prior to moving in, the tenant paid a security deposit of \$312.50.

Both parties agreed that just prior to the start of this tenancy; the landlord had replaced the carpet and painted the whole unit except for two closets. A move in inspection was done and the report filed into evidence showed that most items were either new or in good condition.

The landlord stated that in the first week of April 2014, he received complaints from three other occupants of the building regarding an awful odor that was coming from the rental unit.

The landlord stated in his written submission that he found out that the tenant kept lizards, snakes, spiders, and fish as pets and bred mice, rats, tadpoles and crickets to feed her pets. The tenant agreed that she had two fish tanks, one small snake, a bearded dragon and an iguana.

The tenant stated that she had mentioned her pets to the landlord at the start of tenancy and that the landlord had agreed to allow her to keep them. The landlord denied having been informed of the tenant's pets by the tenant and stated that he would never have given her permission to keep pets such as the ones she had.

Shortly after the landlord received complaints from the other occupants of the building, he gave the tenant the option of removing the pets or moving out. The tenant did not respond to the landlord and therefore on April 23, 2014, the landlord gave the tenant a one month notice to end tenancy for cause, with an effective date of May 30, 2014.

On May 03, 2014, the tenant gave the landlord written notice to move out on June 30, 2014. The landlord had started looking to re-rent the unit for June 01, but upon receiving the tenant's notice to move out at the end of June and because the tenant had disputed the notice to end tenancy, the landlord stopped making attempts to find a tenant for June 01, 2014. Despite providing this notice to the landlord and disputing the ten day notice to end tenancy, the tenant moved out on May 31, 2014.

The tenant stated that she requested the landlord to conduct a move out inspection and he did not show up. The tenant also stated that the landlord entered her unit on two occasions and stole light bulbs and garbage bags. The tenant is claiming \$30.00 for the light bulbs, \$10.00 for garbage bags and \$3.00 for cleaning supplies. The landlord denied having taken any of the tenant's possessions.

The landlord stated that the unit was left in a dirty condition and he hired a cleaning person. In a report filed into evidence, the cleaning person states that the unit had an overpowering smell, dirty appliance, burns on the carpet, smell of smoke inside the unit, dirty and broken blinds and dirty windows. The cleaning person was paid \$200.00 to clean the rental unit. The landlord filed a copy of the cheque paid for cleaning.

The landlord stated that the restoration of the unit was in progress at the time he made the application and therefore he had estimated some of the costs. However, the work is almost done and the landlord has proof of the costs incurred to restore the unit to a condition in which it could be rented. The landlord stated that he was unable to file the invoices in time for this hearing.

The tenant's witness stated that at the start of the tenancy, the appliances were dirty and there were holes in the walls and carpet. The witness also stated that she helped the tenant clean the unit, prior to moving out.

The landlord stated that the refrigerator and stove were so dirty that it would be impossible to clean them without damaging them. The landlord replaced these appliances with good used ones at a cost of \$300.00.

The landlord has claimed the following:

1.	Replace appliances	\$300.00
2.	Carpet cleaning	\$130.00
3.	General cleaning	\$200.00
4.	Painting	\$600.00
5.	Replace broken blinds	\$140.00
6.	Landlord's time to process claim	\$380.00
7.	Loss of income for June	\$625.00
	Total	\$2,375.00

Analysis

Based on the evidence and sworn testimony of both parties, I find that the appliances were working and in clean and good condition at the start of tenancy, as indicated on the move in inspection report,. The landlord filed a letter from the cleaning person that describes the condition of the appliances at the end of tenancy. The cleaning person concluded that it was not possible to clean or restore these appliances to a good condition without causing damage to the surfaces of the appliances. The landlord replaced the appliances with used ones at a cost of \$300.00. I find that the landlord is entitled to be reimbursed and therefore I award the landlord \$300.00 towards his claim.

The landlord also filed a copy of the cheque paid to the cleaning person in the amount of \$200.00. I find that the landlord is entitled to this amount.

Section 5 of the *Residential Tenancy Policy Guideline* states that where a landlord gives a notice to end tenancy and is entitled to claim damages for loss of rental income, the landlord's obligation to re-rent the rental unit begins after the relevant dispute period set out in the *Residential Tenancy Act* has expired. If the tenant files an application to dispute the notice, the landlord is not required to find a new tenant until the arbitration decision and order are received and the time limits for a review application has passed.

In this case, I find that the tenant filed an application to dispute the notice to end tenancy and then moved out on May 30, 2014 leaving the unit in a condition that was un-rentable due to damage caused by the tenant's pets. The landlord did not have sufficient time to find a tenant for June and therefore suffered a loss of income. I find that the tenant is liable for this loss and therefore I award the landlord his claim of \$625.00 for loss of income.

Overall the landlord has established a claim of \$300.00 for appliances, \$200.00 for cleaning and \$625.00 for loss of income. Since the restoration work was in progress at the time of the hearing, the balance of the landlord's application is dismissed with leave to reapply. The landlord has proven his claim and therefore I award him the recovery of the filing fee of \$50.00. The landlord has established a total claim of 1,175.00.

The tenant did not provide sufficient evidence to establish her allegation that the landlord had removed bulbs and garbage bags that belonged to her, from the rental unit. Therefore the tenant's claim of \$30.00 for bulbs, \$10.00 for garbage bags and \$3.00 for cleaning is dismissed. Since the tenant has not proven her case, she must bear the cost of filing her application.

I order that the landlord retain the security deposit of \$312.50 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$862.50. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

The landlord will retain the security deposit. I grant the landlord a monetary order in the amount of \$862.50. The balance of the landlord's claim is dismissed with leave to reapply.

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 19, 2014

Residential Tenancy Branch

