



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation - Section 67;
2. An Order to retain the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started on September 1, 2013 for a fixed term to August 31, 2014. Rent of \$980.00 was payable monthly on the first day of each month and at the outset of the tenancy the Landlord collected \$490.00 as a security deposit. The tenancy agreement provides for a \$25.00 late rent fee.

The Tenant gave notice to end the tenancy for February 28, 2014 and then failed to pay rent for February 2014. The Landlord served the Tenant with a 10 day notice to end

tenancy for unpaid rent with an effective date of February 16, 2014. The Landlord discovered the unit empty on February 15, 2014. The Landlord claims unpaid February 2014 rent of \$980.00 plus a late fee.

The Landlord made calls to the Tenant to arrange a move-out inspection however no calls were returned by the Tenant. The Landlord conducted the move-out inspection without the Tenant present on February 28, 2014. The Landlord provided a copy of both a move-in and move-out inspection. It is noted that the only items marked as dirty at move-out are the carpets and the stove.

The Landlord states that the Tenant left the unit unclean and claims \$180.00. A third party did the cleaning however no invoice from this company was provided. The Landlord states that the Tenant failed to return keys to the unit and the Landlord claims \$291.00. A company was hired to provide the keys however the Landlord did not provide an invoice from this company.

The Landlord states that the unit was advertised on March 4 at a rental rate of \$1,000.00 or \$980.00 and the unit was rented for April 1, 2014. The Landlord claims lost rental income for March 2014 of \$980.00

Analysis

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established. Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all the keys or other means of access that are in

the possession or control of the tenant and that allow access to and within the residential property. Based on the undisputed evidence of the Landlord and considering the tenancy agreement that requires monthly rent of \$980.00 I find that the Tenant failed to pay February 2014 rent and that the Landlord is therefore entitled to **\$980.00**. As the Landlord did not advertise the unit until the first week of March 2014 and considering that the rental amount may have increased for the re-rental, I find that the Landlord has failed to establish that it took reasonable measures to mitigate its lost rental income and I dismiss this claim.

As the Landlord failed to provide an invoices from the company that cleaned the unit, considering that the only item identified as unclean in the move-out condition report other than the carpets was the stove and considering the excessive amount being claimed for cleaning the stove, I find that the Landlord has failed to establish the costs claimed and I dismiss the claim for unit cleaning costs of \$180.00. Considering the large amount being claimed for the replacement of keys and noting that the Landlord has not provided an invoice from the company that provided the new keys to the Landlord, I find that the Landlord has failed to establish the costs claimed for replacing keys and I dismiss this claim.

Given the move-out inspection noting the unclean carpets and given the carpet cleaning company invoice I find that the Landlord has substantiated the costs claimed of **\$100.00**. As the Landlord's application has met with limited success I find that the Landlord is only entitled to half of the filing fee in the amount of **\$50.00** for a total entitlement of **\$1,130.00**. Deducting the security deposit of **\$490.00** plus zero interest leaves **\$640.00** owed by the Tenant to the Landlord.

Conclusion

I Order the Landlord to retain the security deposit and interest of \$490.00 in partial satisfaction of the claim.

I grant the Landlord an order under Section 67 of the Act for the remaining amount of **\$640.00**. If necessary, this order may be filed in the Small Claims Court 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: July 11, 2014

Residential Tenancy Branch

