



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing was scheduled in response to the landlord's application for a monetary order as compensation for unpaid rent / compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit and pet damage deposit / and recovery of the filing fee. The landlord attended and gave affirmed testimony.

The landlord testified that the application for dispute resolution and notice of hearing (the "hearing package") was served by way of registered mail. Evidence provided by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "delivered" on May 29, 2014. Despite this, the tenant did not appear.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the fixed term of tenancy is from September 08, 2013 to August 31, 2014. Thereafter, the tenancy agreement provides that tenancy may continue on a month-to-month basis. Monthly rent of \$1,300.00 is due and payable in advance on the first day of each month. A security deposit of \$650.00 and a pet damage deposit of \$650.00 were collected. A move-in condition inspection report was completed with the participation of both parties.

On April 08, 2014 the tenant gave verbal notice to end tenancy effective April 30, 2014. Despite issuance of a Notice of Final Opportunity to Schedule a Condition Inspection, the tenant declined to participate in the move-out condition inspection. In the result, the landlord completed the move-out condition inspection report in the tenant's absence and has subsequently mailed a copy to him.

Thereafter, the tenant sent a letter to the tenant postmarked May 07, 2014 in which he provided his forwarding address and requested the return of his security deposit and pet damage deposit. The landlord's application for dispute resolution was then filed on May 20, 2014.

The landlord commenced online advertising for new renters on April 09, 2014, the day following her receipt of the tenant's verbal notice to end tenancy. Subsequently, new renters were found effective from mid May 2014.

Analysis

The attention of the parties is drawn to the following particular sections of the Act:

Section 45: **Tenant's notice**

Section 52: **Form and content of notice to end tenancy**

Section 7: **Liability for not complying with this Act or a tenancy agreement**

Section 37: **Leaving the rental unit at the end of a tenancy**

Based on the documentary evidence which includes, but is not limited to, photographs, receipts and text messages exchanged between the parties, in addition to the affirmed / undisputed testimony of the landlord, the various aspects of the landlord's claim and my findings around each are set out below.

\$650.00: *loss of rental income for the first ½ of May 2014*

I find that the nature and timing of notice given by the tenant to end the fixed term tenancy did not comply with the relevant statutory provisions set out in sections 45 and 52 of the Act. I also find that the landlord undertook to mitigate the loss of rental income by advertising for new renters in a timely fashion after receiving the tenant's notice. In the result, I find that the landlord has established entitlement to the full amount claimed.

\$966.00: *cost of labour & repairs to walls and door frames*

\$8.61: *stain pen for floor damage*

\$10.26: *glue to repair blinds*

\$14.52: *supplies for door repair*

\$29.01: *replacement of light bulbs*

\$52.54: *repair costs for bedroom door hinge*

\$400.00: *day # 1 of professional cleaning in the unit*

\$270.00: *day # 2 of professional cleaning in the unit*

Subtotal: \$1,750.94

I find that at the end of this tenancy the unit was not left “reasonably clean, and undamaged except for reasonable wear and tear,” as required by section 37 of the Act. Accordingly, I find that landlord has established entitlement to the full amount claimed.

\$732.90: carpet & underpad removal, replacement & installation

The landlord testified that carpet was replaced mainly as a result of pet urine stains and smells left behind at the end of this tenancy, which could not be removed.

The landlord also testified that there was a previous renter in the unit for approximately 1½ years, and that the unit and carpet were brand new at that time. Adding the 8 month period of the subject tenancy to the previous 1½ year long tenancy, I find that the carpet was approximately 2 years of age at the end of the subject tenancy.

Residential Tenancy Policy Guideline # 40 speaks to the “Useful Life of Building Elements,” and provides that the useful life of carpet is 10 years. In the result, I find that the landlord has established entitlement limited to **\$586.32**, or 80% of the amount claimed.

***\$300.00:** \$200.00 fine for damage to common property & \$100.00 move-out fee, both assessed against the landlord by the strata council*

I find that these costs arose from actions / inactions on the part of the tenant and that, accordingly, the landlord has established entitlement to the full amount claimed.

\$400.00: landlord's and another's time for miscellaneous cleaning and repairs (16 person hours x \$25.00 per hour)

In view of the other aspects of the landlord's successful claim for professional cleaning and repairs, as above, I find that the landlord has established entitlement in this aspect of her claim which is limited to **\$200.00**.

\$300.00: reduced value of stove as a result of damage

I find that damage to the stovetop is relatively superficial, and the landlord testified that the stove is still functional. Accordingly, I find that the landlord has established entitlement limited to **\$100.00**.

\$70.00: *cost for replacement of damaged microwave handle*

The landlord testified that the microwave handle has not presently been replaced and that it still functions. In the result, I find that the landlord has established entitlement limited to **\$35.00**.

\$50.00: *filing fee*

As the landlord has achieved a significant measure of success with her application, I find that she has established entitlement to recovery of the full filing fee.

Total: \$3,672.26

I order that the landlord retain the **security deposit** and the **pet damage deposit** in the combined total amount of **\$1,300.00** (\$650.00 + \$650.00), and I grant the landlord a **monetary order** for the balance owed of **\$2,372.26** (\$3,672.26 - \$1,300.00).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$2,372.26**. Should it be necessary, this order may be served on the tenant, 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: September 24, 2014

Residential Tenancy Branch

