



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KENDALL PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

Decision

Dispute Codes: MND, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for reimbursement for cleaning costs, loss of rent, carpet cleaning and replacement and reimbursement for a strata bylaw violation fine.

Despite being served by registered mail, to an address provided to the landlord verbally by the tenant, the respondent did not appear.

Issue(s) to be Decided

Is the landlord entitled to compensation for rent, loss of revenue , repairs and cleaning?

Background and Evidence

The tenancy began September 1, 2013 and rent was \$1,200.00. A security deposit of \$600.00 was paid. The landlord testified that the tenant did not pay rental arrears of \$1,300.00 accrued by April 2014 and the landlord is seeking this amount. The landlord testified that the tenant moved out on April 20, 2014 and provided a verbal forwarding address.

The landlord testified that the tenant did not participate in the move-out condition inspection and it was done in the tenant's absence. The landlord did not submit copies of any written requests to the tenant attempting to schedule a move-out condition inspection. The landlord stated they discussed the final inspection verbally.

The landlord testified that the tenant failed to clean the unit and the landlord incurred costs of \$348.00 for general cleaning and \$105.00 to clean the strata elevator carpets.

The landlord is also claiming replacement carpets in the unit at an estimated cost of \$3222.96. The landlord testified that the 5-year old carpeting could not be cleaned.

Also being claimed is new carpet tile in the strata hallway for \$125.00 and reimbursement of a \$75.00 fine imposed by the strata council.

The landlord testified they were not able to show and re-rent the unit for May 1, 2014 and the landlord incurred a loss of \$1,200.00 for May 2014, which is being claimed.

The landlord submitted evidence that included a copy of the tenancy agreement, copies of the move-in and move-out condition inspection reports, photos, receipts, estimates, copies of communications and proof of service.

Analysis

With respect to rent owed, I find section 26 of the Act states that rent must be paid when it is due, under the tenancy agreement and the tenant failed to pay the rent when it was due. Accordingly, I find that the landlord is entitled to monetary compensation for rental arrears in the amount of \$1,300.00 for rent owed for April 2014.

In regard to the landlord's claim for \$1,200.00 compensation for loss of revenue for May 2014 based on the condition of the suite, I find that this is a claim in damages under section 67 of the Act. I find that the tenant vacated in accordance with the landlord's 10-Day Notice issued on April 7, 2014 and returned possession by April 20, 2014.

In a claim for damage or loss under section 7(1) of the Act, the party making the claim bears the burden of proof and the evidence furnished by the applicant must satisfy each component of the test for damages by establishing the existence and value of the damage/loss, proving it stemmed directly from a violation of the agreement or Act by the respondent and that a reasonable attempt was made to mitigate the damage or losses incurred pursuant to section 7(2) of the Act.

I find that the landlord issued the Notice to vacate on April 7, 2014. After the tenant complied with the Notice I find that the landlord had 10 days before the end of the month in which to restore the rental unit. I find that there is a requirement under section 7(2) of the Act that the landlord take reasonable steps to mitigate the loss, including advertising the vacancy and preparing the unit for re-rental without delay.

In this instance I find that the landlord did not provide proof of advertising the unit, despite being aware that the tenancy would end when they issued the Ten Day Notice on April 7, 2014. Therefore, I find that the landlord has not met section 7(2) of the Act and is not entitled to the claim for \$1,200.00 loss of rent for the month of May 2014.

I accept that the tenant violated section 37 of the Act by leaving the unit in need of cleaning and that costs of \$348.00 were incurred for which the landlord is entitled to be compensated in addition to the \$105.00 cost for carpet cleaning in the elevator.

In regard to the claim for carpet replacement in the unit and new carpet tiles in the strata hallway, I find that the landlord has not submitted sufficient evidentiary proof to establish that the carpets had to be replaced and could not be cleaned.

In regard to the claim for reimbursement of the \$75.00 strata fine, I find that the landlord did not provide sufficient evidence to prove this claim.

Given the above, I find that the landlord has established a total monetary claim of \$1,853.00 comprised of \$1,300.00 rental arrears for April 2014, \$348.00 for cleaning costs, \$105.00 for carpet cleaning and the \$100.00 paid for this application.

I order that the landlord retain the tenant's security deposit and interest of \$600.00 in partial satisfaction of the claim, leaving a balance of \$1,253.00 in favour of the landlord.

I hereby grant the Landlord an order under section 67 for \$1,253.00. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court

Conclusion

The landlord is successful in the application and is granted a monetary order and an order to retain the tenant's security deposit in partial satisfaction of the claim.

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 30, 2014

Residential Tenancy Branch

