



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Colliers Macaulay Nicolls Inc. on behalf of the owner
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order. The hearing was conducted via teleconference and was attended by an agent for the landlord and the tenant.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for the cost of repairs to the rental unit; for cleaning the rental unit; for lost revenue; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord provided a copy of a tenancy agreement signed by the parties on August 28, 2013 for a 1 year fixed term tenancy beginning on September 1, 2013 for a monthly rent of \$1,695.00 due on the 1st of each month with a security deposit of \$847.50 paid. The tenancy ended when the tenant vacated the rental unit on June 25, 2014.

The landlord seeks the following compensation:

Description	Amount
Repairs and painting	\$5,092.50
Stove Replacement	\$563.85
Carpet cleaning	\$156.45
General cleaning	\$525.00
Re-keying the unit	\$136.63
Loss of revenue for July 2014	\$1,695.00
Total	\$8,169.43

The landlord submitted into evidence the following:

- A copy of a Condition Inspection Report recording the condition of the rental unit at the start and end of the tenancy. The report records that the entire rental unit required cleaning and a number of repairs and replacements were required;
- Several photographs recording the condition of the rental unit at the end of the tenancy;
- Invoices and receipts for the amount of cleaning; repairs; and replacements required.

The landlord submits the keys were changed on the rental unit because the tenant had continued access to the residential property through friends who still lived in the building and the landlord was concerned about the potential for the tenant to enter the rental unit. The landlord submits that due to the condition of the rental unit they could not find any tenants, despite several showings in June 2014, to take over the tenancy in the month of July 2014.

The tenant submits that he left the rental unit in the same condition as when he received it. When asked why he signed in the Condition Inspection Report at the start of the tenancy confirming the condition was all good, he testified that he was just trying to be nice and get along with his landlord. The tenant provided no evidence to confirm his position.

The tenant submits that he was aware of some students who were interested in the rental unit and the landlord could have had the unit rented by July 1, 2014. The landlord acknowledged 3 students had applied and that two of the students had been approved by the landlord but one was not and as such the students decided not to take the unit.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 37 of the *Act* requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all keys or other means of access that are in the possession and control of the tenant and that allow access to and within the residential property.

Based on the substantial evidence provided by the landlord I find that the landlord has established the condition of the rental unit at both the start and end of the tenancy. I find the tenant's testimony, in the absence of any proof of the condition of the unit at the

start of the tenancy, is not credible. I am also satisfied that the landlord has provided sufficient evidence to establish the value of the losses incurred for cleaning; carpet cleaning; repairs and painting; and stove replacement.

I also accept, based on the testimony of the landlord that they were unable to rent out the unit effective July 1, 2014. As such, I find the landlord suffered a loss of revenue in the amount equivalent to 1 month's rent.

As to the landlord's claim for having the rental unit re-keyed I find the landlord provided no testimony regarding the tenant breaching the act sufficiently to warrant being required to pay for re-keying the locks. I dismiss this portion of the landlord's claim.

For example, had there been evidence before me that the tenant had not returned keys as is required under Section 37 the landlord may have had grounds to claim re-keying. However, fear of the potential for the tenant to enter the unit may be a good reason for the landlord to change the locks but it is not sufficient for the tenant to pay for the re-keying.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$8,132.80** comprised of \$5,092.50 repairs/painting; \$563.85 replacement stove; \$156.45 carpet cleaning; \$525.00 general cleaning; \$1,695.00 lost revenue and the \$100.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$847.50 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$7,285.30**.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: December 17, 2014

Residential Tenancy Branch

