



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, 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 unpaid rent - Section 67;
2. A Monetary Order for compensation - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each 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 December 1, 2010 and ended on January 31, 2014. Rent of \$1,900.00 was payable monthly on the first day of the month as of February 1, 2014. At the outset of the tenancy the Landlord collected \$875.00 as a security deposit. The Parties mutually conducted a move-in inspection and report. The Tenant gave her forwarding address to the Landlord in June 2014.

The Landlord states that no move-out inspection was conducted as the Tenant had no time when it was offered on February 1, 2014. The Landlord states that no other offer

to inspect was given to the Tenant and that the Landlord did an inspection but did not complete a report. The Landlord states that the Tenant left the unit unclean and that the Landlord spent 10 hours cleaning the unit. The Landlord states that the Tenant did not clean under the fridge and stove and that they are on wheels. The Landlord claims \$200.00 for the cost of their time to clean the unit.

The Tenant states that the Parties did conduct an inspection of the unit on February 1, 2014 and that the Landlord did not say anything about lack of cleaning. The Tenant states that the appliances were not on rollers and could not be moved by the Tenant. The Landlord states that the appliances could be moved and were moved by her husband.

The Landlord states that the Tenant orally told her on January 3, 2014 that she might move or might obtain a new roommate. The Landlord states that it was not until January 23, 2014 that the Tenant informed the Landlord of the intention to move out of the unit at the end of January 2014. The Landlord states that the unit was advertised on a rental web page in the second week of February 2014 for a rental rate of \$1,975.00. The Landlord states that the unit was advertised at this rate as the Tenant had been given a rental increase for this amount to be effective March 1, 2014. The Landlord claims lost rental income of \$1,900.00.

The Landlord claims \$200.00 for a strata fine and the Tenant does not dispute this claim.

The Landlord states that the Tenant failed to return a fob and claims \$90.00. No receipt indicating that the Landlord incurred this cost was provided. The Tenant states that prior to the end of the tenancy the Landlord replaced a fob at the cost of \$50.00 for the Tenant. The Tenant questions the amount now being claimed.

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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. While I accept that the Landlord did not know the Tenant was not moving out until January 23, 2014, considering that the Landlord did not advertise the unit until three weeks later and considering that the Landlord advertised the unit for more than the Tenant would have been liable to for February 2014 I find that the Landlord failed to take reasonable steps to mitigate the rental loss claimed and I dismiss this claim. Based on the undisputed evidence that the Tenant failed to return a fob but considering the Tenant's evidence of previous cost and the lack of an invoice from the Landlord I find that the Landlord has only substantiated an entitlement to costs of **\$50.00**.

Given the lack of a move-out condition inspection report, no photos of the unit to support the claims of uncleanliness and considering the Tenant's believable evidence that the unit was clean and the appliances were not on rollers, I find that the Landlord has not provided sufficient evidence for its claim for cleaning and I dismiss this claim.

As the Tenant has not disputed the claim for **\$200.00** I find that the Landlord is entitled to this amount. As the Landlord's application has met with limited success, I decline to award recovery of the filing fee. Deducting \$250.00 from the security deposit of \$875.00 plus zero interest leaves \$625.00 owed to the Tenant.

Conclusion

I Order the Landlord to retain the amount of \$250.00 from the security deposit plus interest in the amount of \$875.00 in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for the amount of **\$625.00**. 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: January 23, 2015

Residential Tenancy Branch

