



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LI-CAR MANAGEMENT GROUP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for damage to the unit, site or property; for an Order permitting the landlord to keep all or part of the tenants' security and pet deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenants for the cost of this application.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*; served by registered mail to both tenants on August 11, 2014. Canada Post tracking numbers were provided by the landlord in documentary evidence. The tenants were deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

Four agents for the landlord appeared and LT gave sworn testimony on behalf of the landlord. The landlord was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the landlord entitled to keep any amount from the security and pet deposit for cleaning in the unit and for a loss of rental income?

Background and Evidence

LP testified that this tenancy started on August 01, 2013 and ended on July 31, 2014. Rent for this unit was \$1,600.00 per month due on the 1st of each month in advance. The tenants paid a security deposit of \$800.00 and a pet deposit of \$800.00 at the start of the tenancy. A copy of the tenancy agreement signed by the parties was provided in documentary evidence.

LP testified that the tenants gave late notice to end the tenancy. The notice should have been received by the landlord on the last day of June, 2014 in order to be effective at the end of July, 2014. The tenants failed to do this in accordance to the *Act* and the tenancy agreement and their notice to end tenancy was received by the landlord on July 02, 2014. LT testified that the landlord had sought a loss of income for the entire month of August due to this late notice; however, the landlord seeks to amend their claim for a loss of rental income as the unit was re-rented on August 16, 2014. The landlord therefore amends their claim to \$800.00.

LT testified that the tenants attended the move out condition inspection report and agreed in writing that the landlord can retain the amounts for the loss of rental income and for cleaning and carpet cleaning charges from the security deposit. LT testified that the tenant agreed that the unit required extra cleaning to the stove, the fridge, the blinds and the floors and also for carpet cleaning. After the tenants movers had left the unit, the landlord's agent also found that marks and debris were left on the kitchen floor by the movers. The marks could not be removed and the floor had to be stripped and refinished.

LT testified that the amounts shown on the move out report were estimated at the time the inspection was completed. The actual amounts incurred for cleaning are \$125.00 which includes \$20.00 for supplies and \$126.00 for carpet cleaning. LT requested that these amounts are deducted from the tenants' security and pet deposit along with the loss of rental income and the \$50.00 filing fee.

Analysis

The tenants did not appear at the hearing to dispute the landlord's claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenants, I have carefully considered the landlord's documentary evidence and sworn testimony before me.

I refer the parties to s. 45(1) of the *Act* which states:

45 (1) *A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that*

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

The landlord has sufficient evidence to show that the tenants did not give notice to end the tenancy until July 02, 2014 and this notice has an effective date of July 31, 2014. I find therefore that the tenants failed to provide sufficient notice under s. 45(1) of the *Act* to end the tenancy on July 31, 2014. The landlord has a statutory duty to mitigate the loss of rent by making reasonable effort to re-rent the unit for August. The landlord did manage to rent the unit for August 16, 2014 and therefore I uphold the landlord's claim to recover a loss of rent for the first half of August of \$800.00.

With regard to the landlord's claim for cleaning and carpet cleaning costs; I find the tenant has signed the move out condition inspection report agreeing that the landlord may make deductions for this additional cleaning and carpet cleaning. Normally when a tenant agrees in writing that a landlord may make certain deductions from a security or pet deposit then the landlord does not have to file a claim seeking an Order for those deductions to be made; however, in this case the deductions agreed were estimated and the invoices for this work were slightly higher than estimated. I will therefore deal with this claim. I am satisfied from the evidence before me that there was additional cleaning required in the unit and costs incurred by the landlord for carpet cleaning. Consequently, I uphold the landlord's claim to recover the amounts of \$125.00 for cleaning and \$126.00 for carpet cleaning.

I Order the landlord to deduct the following sums from the security and pet deposit pursuant to s. 38(4)(b) of the *Act*. This includes the \$50.00 filing fee paid by the landlord for the cost of this application:

Security and pet deposit	\$1,600.00
Loss of rental income for August	(-\$800.00)
Cleaning costs	(-\$125.00)
Carpet cleaning	(-\$126.00)
Filing fee	(-\$50.00)
Total amount due to the tenants	\$499.00

I Order the landlord to return the balance of the pet deposit to the tenants pursuant to s. 38(6)(b) of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlord's amended monetary claim. The landlord is entitled to keep the amount of **1,101.00** from the tenants' security and pet deposit in satisfaction of the landlord's monetary claim.

A copy of the tenants' decision will be accompanied by a Monetary Order for **\$499.00**. The Order must be served on the landlord. If the landlord fails to pay the Order, the Order is enforceable through the Provincial Court 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: February 26, 2015

Residential Tenancy Branch

