



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding E Y PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNDC MNSD FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- a) A monetary order pursuant to Sections 46 and 67 for unpaid rent and damages;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

SERVICE:

The tenant did not attend. The landlord gave evidence that the Application for Dispute Resolution was served by registered mail. It was verified online that delivery was attempted on February 23, 2015, notices were left and it was returned to the sender after the tenant had failed to pick it up by March 16, 2015. I find that the tenant is deemed to be served with the documents according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that the tenant owes rent and did damages to the property, that they were beyond reasonable wear and tear and the cost to cure the damage? Is the landlord entitled to recover the filing fee?

Background and Evidence:

Only the landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced on April 1, 2014 on a fixed term lease to March 31, 2015. The landlord said the tenant vacated on August 26, 2014 without paying rent for August 2014. They were able to mitigate the damages by re-renting for September 1, 2014. The landlord claims as follows:

- a) \$125 for cleaning
- b) \$180 for repairing and painting walls damaged by tenant with gouges etc.
- c) \$1050.00 unpaid rent for August 2014
- d) \$400 for liquidated damages to cover administrative costs of re-renting as set out in the lease for breach of a fixed term lease
- e) \$35 for a new mailbox key as the tenant lost the key

In support of the Application the landlord provided as evidence registered mail receipts, the tenant's Notice to End his tenancy, a move-out report signed by the tenant, a cost sheet, invoices and photographs. The tenant submitted no documents in dispute but had disputed the cleaning cost by email with the landlord.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Monetary Order:

The onus of proof is on the landlord to prove that there is unpaid rent and the tenant did damage to the property, that it was beyond reasonable wear and tear and the amount it cost to cure this damage. I find the landlord has satisfied the onus. The supporting evidence shows the tenant was the first occupant in a new suite and he agreed to the charges as claimed on the move-out report; I find the photographs also illustrate that the walls and bathroom needed extra cleaning and plaster repair and the invoices prove the cost of repair.

I find the landlord also entitled to the liquidated damages which are the agreed upon pre-estimate of the costs of re-renting, should the tenant breach the lease before the end of the fixed term. The tenant signed an agreement for these charges.

Conclusion:

I find the landlord is entitled to a monetary order as calculated below. I find the landlord is entitled to retain the security deposit and key fob deposit to offset the rental and damage amounts owing and to recover filing fees paid for this application.

Calculation of Monetary Award:

Unpaid rent August	1050.00
Cleaning cost	125.00
Repair and paint cost	180.00
Liquidated damages	400.00
Lost mailbox key	35.00
Filing fee	50.00
Less security (525) and Key (50) deposits	-575.00
Total Monetary Order to Landlord	1265.00

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: April 23, 2015

Residential Tenancy Branch

