



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties confirmed that they received each other's documentary evidence in accordance with Section 89 of the Act and pursuant to the rules of procedure. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background, Evidence and Analysis

The landlord's testimony is as follows. The tenancy began on January 1, 2014 and ended on June 20, 2014. The tenants were obligated to pay \$600.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$300.00 security deposit. The landlord stated that the tenants had allowed their cousins and friends to stay in the unit with them from the time the tenancy began. The landlord stated that they were always in the yard drinking alcohol and causing a disturbance.

The landlord stated that the tenants' had a dispute with their cousins on June 13, 2014 and the tenants cousins proceeded to burn the outside of the house, kick in all the windows of the house and set fire to one of the tenants' cars. The landlord stated that the tenants' family caused extreme damage to the home. The landlord stated that the tenants' family members were criminally charged with arson. The landlord stated the tenants' decided to move out of the unit on June 20, 2014 without consulting the landlord.

The female tenant that participated in this hearing stated that none of the events would have occurred if she was there. The female tenant stated that she was in the hospital for drinking too much alcohol when this happened and wasn't released until three days after the event. The female tenant stated that she didn't have any firsthand knowledge of the events but "the police told me everything". The tenant stated that she doesn't feel she should have to pay for the damages caused by her cousins was the position she took on all of the following claims.

I address the landlord's claims and my findings around each as follows.

Landlords First Claim – The landlord is seeking \$364.00 for moving the tenants' belongings to a new location. The landlord stated that in an attempt to get repairs done as quickly as possible he paid for movers to assist the tenants on the condition that they pay him back. The tenant did not dispute that the landlord paid to have their items moved. The landlord provided a receipt and the party that moved the items gave affirmed testimony in this hearing. The tenant stated she did not have any knowledge of this arrangement and could not comment. Based on the undisputed evidence before me, I find the landlord is entitled to \$364.00.

Landlords Second Claim – The landlord is seeking \$242.02 for building supplies to repair the siding that was damaged in the fire. The landlord provided a receipt, witness testimony and photos to support his claim. Based on the evidence before me and the inability of the tenant to dispute the events, I find that the landlord is entitled to \$242.02.

Landlords Third Claim – The landlord is seeking \$360.00 for the costs of labour to repair the soffits, siding and eaves. Based on the evidence before me and the inability of the tenant to dispute the events, I find that the landlord is entitled to \$360.00.

Landlords Fourth Claim – The landlord is seeking \$1764.98 for the replacement of windows that he alleges the tenants cousins kicked in.

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

The landlord has submitted a receipt for the windows and several photos. The photos depict six damaged windows yet the receipt lists nine windows. In addition, the measurements of the windows on the receipt do not reflect the windows as depicted in the photos. The landlord has not provided sufficient evidence to support this claim as sought. However, I do accept that the the landlord did incur some costs to replace the windows. Based on the undisputed testimony before me and the evidence that I have given some weight to, I find that the landlord is entitled to a nominal amount of \$500.00.

Landlords Fifth Claim – The landlord is seeking \$1200.00 of lost revenue for the months of July and August. The landlord stated that he was unable to rent the unit until September 1,

2014. The landlord stated that the repairs took over a month to complete and that the unit wasn't ready until late July.

The landlord did not provide any documentation that would suggest the suite itself was uninhabitable. The photos were of the entire exterior of the home. The landlord was silent as to damage to the interior of the suite, if any. Also, the repairs were primarily cosmetic to the exterior of the home; no explanation of how this prevented the landlord from attempting to mitigate his rental losses was given. Based on the above, and on the insufficient evidence provided by the landlord in relation to mitigating his losses I find that he is entitled only to the loss of July's rent of \$600.00 as the tenant did not provide sufficient notice to end the tenancy as required under the Act. The landlord is entitled to \$600.00.

The landlord is also entitled to the recovery of the \$50.00 filing fee.

Conclusion

In summary, the landlord has been successful in the following claims:

Moving Tenants Belongings	\$364.00
Building Supplies	\$ 242.02
Windows	\$500.00
Labour for Repairs	\$360.00
Loss of Revenue July 2014	\$ 600.00
Filing Fee	\$ 50.00
Total:	\$2116.02

The landlord has established a claim for \$2116.02. I order that the landlord retain the \$300.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1816.02. 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: April 15, 2015

Residential Tenancy Branch

