



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 45, 46 and 67;
- 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 landlord/applicant did not attend but the tenant agreed he received the Application for Dispute Resolution by registered mail. I find that the tenant was legally 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 tenant attended. After waiting 10 minutes, the hearing proceeded in the absence of the landlord/applicant. The tenant was given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced on September 1, 2013 on a fixed term to August 31, 2014 and month to month thereafter, a security deposit of \$725 was paid and rent is currently \$1450 a month. It is undisputed that the tenant gave notice to end his tenancy on December 8, 2014 and vacated December 13, 2014 due to job relocation. The landlord is claiming \$1176.46 but only specifies costs of cleaning \$156.46 and electric \$30.62. The tenant agrees to these charges but says he has no idea what the additional claim is for. He said the landlord was to advise him when the unit was re-rented but did not.

On the Condition Inspection Report is noted that the unit requires cleaning and the tenant signed it. He said however, that in the box he signed he was not agreeing to forfeit his whole security deposit; the landlord said there would be a charge of about \$200 for cleaning and he thought that would be deducted from his security deposit. He requests the refund of any of his deposit remaining after the specified charges are deducted. In evidence is the tenancy agreement, a Condition Inspection Report, the utility and cleaning bills.

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

Analysis

Monetary Order:

Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

The onus of proof is on the landlord to prove his claim. The landlord did not attend to support his claim but I find him entitled to recover his costs of cleaning \$156.46 and utilities \$30.62 as the tenant agreed that he was responsible for those costs incurred by the landlord. The landlord specified no further costs.

Although the tenant violated the *Act* by not giving one full month's notice to end his tenancy, the landlord provided no proof of any losses incurred and did not attend the hearing to provide evidence of his efforts to mitigate the damage by re-renting. Therefore I dismiss this portion of his claim without leave to reapply.

Conclusion:

I find the landlord is entitled to a monetary order as calculated below. I find the landlord is entitled to retain a portion of the security deposit to offset the amount owing and to recover filing fees paid for this application. I dismiss the balance of his claim without leave to reapply. The balance of the security deposit will be refunded to the tenant in a monetary order in his favour.

Calculation of Monetary Award:

Security Deposit (no interest 2013-15)	725.00
Less Filing fee to landlord	-50.00
Less cleaning and utility costs (156.46+30.62)	-187.08
Monetary Order to Tenant for balance	487.92

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: June 04, 2015

Residential Tenancy Branch

