



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLUMBIA PROPERTY MANAGEMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MND, MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for a monetary order for unpaid rent and for damage to the unit pursuant to section 67; authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 1:49 pm in order to enable the tenants to connect with this teleconference hearing scheduled for 1:30 pm. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions.

The landlord testified that she served two separate copies of the Application for Dispute Resolution to each tenant at the forwarding address provided by those tenants by registered mail on January 12, 2015. She testified that a further evidence package was sent by registered mail to each tenant on May 20, 2015. Based on the undisputed sworn evidence of the landlord and the evidence provided by way of Canada Post receipts and tracking numbers, I find the tenants both deemed served with the landlord's dispute resolution package on January 17, 2015, 5 days after its registered mailing and in accordance with section 89 and 90 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and damage arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's security deposit towards any monetary award?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This 12 month fixed term tenancy began on January 1, 2014 with a rental amount of \$1250.00 payable on the first of each month. The landlord testified that she continues to hold a \$625.00 security deposit paid by the tenants on December 6, 2013. The landlord testified that the tenants provided notice that they intended to end the tenancy on December 3, 2013 and vacated the residence on January 1, 2014. The landlord submitted a copy of the residential tenancy agreement for this tenancy as well as a copy of the notice provided by the tenants. The landlord applied for a monetary order in the amount of \$2086.00 for January 2014 rent as well as clean-up and repairs to the unit after the tenants vacated.

The landlord referred to the residential tenancy agreement that states, "The tenant agrees that unless he shall deliver to the Landlord written notice of termination of tenancy at least ONE CLEAR MONTH prior to the end of the term hereof, the Tenant shall be bound to continue the monthly installments of rent ..." and "ONE CLEAR MONTH NOTICE MUST BE GIVEN IN WRITING BY THE LAST DAY OF THE MONTH PRECEEDING THE END OF YOUR TENANCY." She submitted a copy of the tenant's 'notice to vacate' dated December 3, 2014. The landlord submitted copies of online listings and advertisements for the rental of the property. She testified that, as of December 3, 2014, the landlord advertised by;

- their own website;
- internal property management and real estate listings;
- a regularly used online general advertisement site; and
- a regularly used online tenancy site.

The landlord testified that the rental unit was not re-rented until April 1, 2015. Based on the lack of a full one months' notice to end tenancy by the tenants and the efforts to mitigate that the landlord listed, the landlord sought \$1250.00 in rental loss for the month of January 2014.

The landlord testified, referring to numbered photographs she submitted for this hearing, that the tenancy required extensive cleaning and repair when the tenants vacated the rental unit. She testified and submitted a receipt to evidence that she hired a cleaner who spent 8.75 hours cleaning the residence. The photographs provided illustrate that sinks were left dirty, cupboards had food and items left behind, windows and other surfaces needed deep cleaning.

The landlord testified that there were extensive repairs required to the walls of the rental unit. She referred to the photographs that showed a variety of marks and stains as well as stick-on items left on the walls. The landlord testified and provided a receipt to show that she hired a repairperson to touch up the walls with paint. She also referred to the condition inspection report that she submitted. That report states that the entire rental unit had been painted December 2013 just prior to the tenants' move-in.

The landlord testified, with photographs in support of her testimony that a stairway banister was broken, no longer attached to the wall. She testified that that area also had to be painted. She testified that, as well, the dining room blinds (marked new on the condition inspection report) were broken when the tenants moved out and needed to be replaced.

The landlord testified that she did not clean the carpets within the rental unit. She testified that, on inspection, it was determined that the carpets would be pulled up and replaced. She provided an invoice showing the carpets were pulled up. She testified that she has yet to know the entirety of the cost of re-carpeting and does not apply at this time with respect to that financial loss.

The landlord testified that the tenants left a variety of items behind when they vacated the rental unit. No pictures reflected items left on the property. The landlord provided an invoice for junk removal and dump fees. The landlord also testified that she was required to replace items like light bulbs and a furnace filter. However, she was not able to provide a receipt for those items and so made no monetary claim with respect to them.

The landlord submitted a note from one of the tenants, Tenant HS. It stated, "...both the keys are in the mailbox. way to[o] sick to do the walk through. I'll pay for damages, broken rail piece, stained carpets, hole in wall (bedroom 1)..."

The landlord acknowledges that some amounts sought in the original application amount of \$2086.00 were not proven in that she was unable to submit receipts for those amounts. She testified that this original amount was based on estimates of the costs she would incur. The landlord's receipts submitted for application are calculated as follows;

Item	Amount
Rental Loss – January 2014	\$1250.00
Rental Unit cleaning	175.00

Dump Fees (\$24.80 + \$46.00)	70.80
Junk removal	75.00
Paint touch-up (\$199.99 + \$32.10 + \$62.50)	294.59
Repairs to carpet, banister, and blind (\$35.02 + \$33.57 + \$150.00 + \$25.00 + \$75.00)	318.59
Deduct Security Deposit	-650.00
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$1583.98

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

Based on the undisputed testimony and supporting evidence of the landlord, I find that the landlord is entitled to \$1250.00 in rental loss for January 2015. Based on the undisputed testimony and detailed submissions, supported by invoices, I find that the landlord has incurred expenses totalling \$175.00 with respect to cleaning after the move-out of the tenants. I note that the landlord has submitted photographic evidence to support her testimony that cleaning was required. Based on the undisputed testimony, submissions detailing repairs and junk removal as well as the photographic evidence, I find that the landlord has shown that the tenants are responsible for her costs incurred and that those costs total \$471.98.

Pursuant to section 72(2) of the *Act*, I find that the landlord is entitled to retain the security deposit from these tenants in partial satisfaction of a monetary award for rental loss, cleaning, junk removal and repairs.

As the landlord has been successful in this application, I find that the landlord is entitled to recover her \$50.00 filing fee for this application.

Conclusion

I issue the landlord a monetary award as follows;

Item	Amount
Rental Loss – January 2014	\$1250.00
Rental Unit cleaning	175.00
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Deduct Security Deposit	-650.00
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$1583.98

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 11, 2015

Residential Tenancy Branch

