



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 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 sworn testimony that the Application for Dispute Resolution was served by registered mail. It was verified as successfully delivered. They also gave evidence of service of evidence by registered mail; it was verified as available for pickup but after notices were left, it was returned to the sender. I find that the tenant was legally served with the Application/Notice of Hearing and deemed to be served with the evidence according to sections 88 and 89 and 90 of the Act.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that the tenant owes rent and damaged the property, that it was 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 evidence is that the tenancy commenced on July 1, 2014 on a fixed term lease to June 30, 2015, a security deposit of \$800 and a pet damage deposit of \$200 were paid and rent was \$1600 a month.

The landlord gave evidence that the tenant vacated with no notice and no forwarding address in December 2014; they were notified by another tenant that this tenant appeared to have moved. They claim \$500 balance of rent owing for December 2014 and \$1600 rent for January 2015 due to insufficient notice and breach of a fixed term lease. The landlord said they were unable to rent until about April 2015 because of extensive repairs that were necessary due to the tenant's actions.

The landlord claims for damages as follows:

1. \$290 for garbage removal
2. \$180 for carpet cleaning
3. \$200 for key replacement as no keys returned
4. \$150 for garage fob replacement
5. \$918.99 for furnace repair (tenant damaged furnace by tenant's children causing a flood which affected the furnace)
6. \$100 for NSF charges
7. \$160 for dishwasher repair (drain pipe found plugged when they left)
8. \$340 to handymen to repair damaged walls and clean up.

In evidence are registration receipts, invoices for dishwasher and furnace repair, garage door repair, rubbish removal and skip tracing, a tenancy agreement and emails and photographs.

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 that the tenant damaged the property, that it was beyond reasonable wear and tear and the amount it cost to cure this damage. I find the landlord satisfied the onus as the invoices, emails and photographs in evidence supported the landlord's oral evidence. I find the tenants in various emails acknowledged their liability for damages caused to the furnace and their inability to pay their rent. I find the landlord suffered losses due to the tenant's actions and violations of the tenancy agreement and *Act*.

I find the weight of the evidence is that the landlord suffered the documented losses. I find the landlord entitled to recover \$290 for garbage removal, 180 for carpet cleaning, \$200 for key replacement as no keys were returned, \$150 for garage fob replacement, \$918.99 for furnace repair as the tenant acknowledged they damaged furnace by the tenant's children causing a flood which affected the furnace, \$160 for dishwasher repair (drain pipe found plugged when they left) and \$340 for the handymen to repair damaged walls and clean up. However, I find them not entitled to recover \$300 for skip tracing charges as there is no obligation in the *Act* or tenancy agreement for tenants to provide new addresses to the landlord.

I also find the landlord not entitled to recover \$100 for NSF charges as they were NSF charges due to his own payments being insufficient. Pursuant to section 7 of the Residential Tenancy Regulation, any charges for late payments or NSF cheques must be specified in the lease. I find no provision in the lease between these parties for the landlord to recover NSF fees. I also find the Act and tenancy agreement make no provisions for award of interest so I decline to award interest to the landlord.

Conclusion:

I find the landlord is entitled to a monetary order as calculated below. I find the landlord is entitled to retain the security and pet damage deposits to offset the rental amount and damage award owing and to recover filing fees paid for this application. I find it appropriate to use the pet damage deposit of \$200 to offset the amount owing as the evidence is that some of the damage was caused by the pet.

Calculation of Monetary Award:

Unpaid rent December 2014	500.00
Rent owed Jan. 2015 due to insufficient notice	1600.00
Rubbish removal	290.00
Carpet cleaning	180.00
Keys and fobs for doors	350.00
Furnace repair	918.99
Dishwasher repair	160.00
Handyman help to fix damage	340.00
Filing fee	50.00
Less deposits	-1000.00
Total Monetary Order to Landlord	3388.99

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: July 21, 2015

Residential Tenancy Branch

