



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 pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Sections 7, 37 and 67 for damages;
- b) To retain the security deposit to offset the amount owing; and
- c) An order to recover the filing fee pursuant to Section 72.

SERVICE

Both parties attended and the tenant agreed the Application for Dispute Resolution was served on her by registered mail. The landlord objected that she did not receive the tenant's evidence which was received by the Residential Tenancy Branch on September 8, 2015. I find that the tenant is served with the Application according to section 89 of the Act.

Issue(s) to be Decided:

Has the landlord has proved on a balance of probabilities that they incurred costs that are the tenant's responsibility to reimburse? If so, what is the amount? Is the landlord entitled to recover the filing fee?

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced November 1, 2013, that monthly rent was \$1100 and a security deposit of \$550 was paid. It is undisputed that the tenant vacated on March 31, 2015 after giving sufficient notice.

In evidence is a signed Residential Tenancy Agreement which provides in section 33 and 34 that the tenancy expires at 1 p.m. on the last day of the tenancy and the tenant will be responsible for damages suffered by the landlord if they over hold beyond 1 p.m. on the last day of the tenancy. The landlord said she arranged to meet the tenant for a move out inspection at 1 p.m. on March 31, 2015 but when they met, a serious

disagreement arose over the tenant's responsibility to have the blinds professionally cleaned and provide a receipt. The tenant agrees she called her sister who was attempting to give her legal advice on the telephone. However, the landlord had arranged for the handyman to come in at 1 p.m. to fix a portion of the floor that had been damaged through no fault of the tenant. He was unable to start work for an hour so the landlord had to pay for an extra hour of his time.

The landlord said the tenant refused to return the keys and said she had a right to stay there until midnight. The landlord had to leave for another appointment and the floor had to be finished for the new tenants to occupy on April 1, 2015 as it cannot be walked on for some time after the repairs. She said she called a locksmith and had the locks changed so the handyman could fix the floors, his tools would be secure if he had to leave and return, and the tenant could not re-enter and walk on the floors. The tenant said she eventually left the keys on the kitchen counter and left about 1:40p.m. after the landlord had gone. She sent late evidence of a photograph showing the keys on the counter. The landlord said she found the keys the next day.

The landlord claims as follows:

- 1) \$53.50 for the wasted hour of the handyman
- 2) \$95.09 for the locksmith
- 3) \$55 for materials and labour to cover the windows for the new tenant while the blinds were sent to be professionally cleaned. The suite is a ground floor unit and was rented to a single female so privacy was important.
- 4) \$107.10 cost of having the blinds professionally cleaned.

The tenant said she paid the recommended cleaning person to clean the suite thoroughly and asked her to clean the blinds. The landlord said the cleaner does not do blinds and she had supplied a company name to the tenant well in advance of the move out date. She referred to the email in evidence from the tenant dated March 28, 2015 asking her if she knew the charge to clean the blinds. The tenant said she was assured by others that it was her responsibility to leave the unit reasonably clean and she did this; she did not think the blinds needed to be sent to be professionally cleaned. She requests the balance of her security deposit.

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

Analysis

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.

Section 37 of the Act states that when a tenant vacates a unit, the tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

The onus is on the landlord to prove her claim. On the matter of the late evidence that was not received by the landlord, I give little or no weight to it as much of it concerns some problems the tenant had during her tenancy and this is not her claim. While I agree with the tenant that section 37 as quoted above is a standard used by many landlords, I find the Residential Tenancy Agreement which she signed obligates her in s. 33 to vacate at 1 p.m. on the last day of the tenancy and in s. 23 to have the blinds professionally cleaned at the end of the tenancy and she did not.

I find the weight of the evidence is that the tenant violated s.33 and 34 of her tenancy agreement and the landlord suffered damages as a result which s. 34 of her tenancy agreement states she must pay for. She said she left at 1:40 p.m. but this was after the landlord had to leave for another appointment. By over holding past 1 p.m. and refusing to return the keys at that time, I find she caused the landlord to incur extra handyman charges of \$53.50 for his wasted hour and \$95.09 in locksmith charges for the landlord had to be assured the unit would be secure and the tenant or friends could not re-enter after the handyman repaired the floor as it could not be walked on for a period of time.

By refusing to have the blinds professionally cleaned in time, I find the tenant violated section 23 of her tenancy agreement which obligated her to do this. As a result, the landlord incurred costs to protect the next tenant's privacy while they were removed and costs to have the blinds professionally cleaned. I find the landlord entitled to recover \$55 for the temporary covering of the windows and \$107.10 for the cost of cleaning the blinds. I find the landlord's evidence well supported by the invoices provided. I find the landlord entitled to recover her costs plus the filing fee.

Conclusion:

I find the landlord is entitled to a monetary order as calculated below and to retain a portion of the security deposit to offset the amount owing. I find the landlord is also entitled to recover filing fees paid for this application. The balance will be in a monetary order to the tenant.

Calculation of Monetary Award:

Security Deposit (no interest 2013-15)	550.00
Less handyman additional cost	-53.50
Less locksmith cost	-95.09
Less cost to cover windows for privacy	-55.00
Less cost to clean blinds	-107.10
Less filing fee to landlord	-50.00
Balance in monetary order to Tenant	189.31

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: September 18, 2015

Residential Tenancy Branch

