



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a Monetary Order for compensation under the Act and the tenancy agreement, for damage and cleaning of the rental unit, and to recover the filing fee for the Application.

Only the Landlord appeared at the hearing. She gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified she served the Tenant with the Notice of Hearing and their Application on April 27, 2015 by registered mail. Under the Act documents served this way are deemed served five days later; accordingly, I find the Tenant was duly served as of April 2, 2015.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Is the Landlord entitled to monetary compensation from the Tenant?

Background and Evidence

This tenancy began November 2013. Rent was payable in the amount of \$1,250.00 and the Tenant paid a \$625.00 security deposit. At a previous hearing on October 3, 2014 my fellow Arbitrator awarded the Landlord recovery of rent for August 2014 and September 2014 as well as the filing fee. The Landlord was also authorized by that

Decision to retain the security deposit in partial satisfaction of the Landlord's monetary claim.

The Landlord testified that the Tenant abandoned the rental unit leaving nearly all of her personal items. At the Tenant's request, the Landlord packed all the Tenant's personal items, as well as her son's, shipped some of those items and attended to disposal of others.

The Landlord also testified that when the Tenant vacated the rental unit she failed to make necessary repairs or attend to cleaning. The Tenant also failed to return the keys. In support the Landlord provided receipts for repairs, cleaning, a new lock as well as photos of the rental unit depicting its condition and the items left by the Tenant.

Also introduced in evidence were copies of numerous emails between the Landlord and the Tenant spanning four months from September 2014 to December 2014 during which time the Tenant instructed the Landlord on packing and shipping her items. In this communication the Landlord also advises the Tenant of the tremendous amount of time she has spent cleaning the rental unit as well as packing and shipping the Tenant's personal items. In an email dated November 29, 2014 the Tenant itemizes which items she would like the Landlord to sell, or ship to her, and thanks the Landlord for all her help, writing: *"I am sorry to put you through so much grief with this. You are great for helping me. I will forever thank you for your help."*

In an email dated October 1, 2014 the Tenant asks the Landlord to return her cable TV box.

In an email dated December 18, 2014 the Landlord informs the Tenant that she has been working for hours cleaning and packing the Tenant's items.

At the within hearing the Landlord sought **\$2,176.34** for the following:

Repair cost for blinds broken by Tenant	\$70.00
Replacement lock	\$44.79
Cost of registered mail	\$12.55
Cost of replacement worker to cover Landlord at her work while she attended to cleaning of the rental unit	\$90.00
Cost of carpet cleaning and repairs by D.C.	\$160.00
Labour costs associated with moving the Tenant's items to storage charged by A.C.	\$80.00

Labour costs associated with moving the Tenant's items to storage charged by D.C.	\$80.00
Labour costs associated with cleaning the rental unit and packing the Tenant's items charged by the Landlord	\$849.00
Labour costs associated repair of the rental unit as well as moving the Tenant's items to storage charged by the Landlord	\$800.00
Total claimed	\$2,176.34

The Landlord also sought recovery of the filing fee.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities.

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.

Based on all of the above, the evidence and testimony, and on a balance of probabilities, I find as follows.

I find the Tenant did not clean the unit, or make necessary repairs, as required, nor did she remove her personal items and in failing to do so she violated the *Act* and the tenancy agreement. I accept the Landlord's evidence that she spent numerous hours cleaning the rental unit, packing the Tenant's personal items and attending to their storage and shipping. I also accept that the Landlord paid others to attend to cleaning and repair, as well as moving the Tenant's personal items. I further find that the Landlord mitigated her losses by doing most of the work herself, or hiring friends to

assist her rather than hiring professional movers which would have likely increased her costs. In all, I find that the Landlord is entitled to be compensated for these amounts.

I decline the Landlord's request for compensation for the cost of registered mailings as such costs are not recoverable under the *Act*.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

[Reproduced as written.]

I accept the Landlord's undisputed testimony and find that the Landlord has established a total monetary claim of **\$2,213.79** comprised of the following:

Repair cost for blinds broken by Tenant	\$70.00
Replacement lock	\$44.79
Cost of replacement worker to cover Landlord at her work while she attended to cleaning of the rental unit	\$90.00
Cost of carpet cleaning and repairs by D.C.	\$160.00
Labour costs associated with moving the Tenant's items to storage charged by A.C.	\$80.00
Labour costs associated with moving the Tenant's items to storage charged by D.C.	\$80.00
Labour costs associated with cleaning the rental unit and packing the Tenant's items charged by the Landlord	\$849.00
Labour costs associated repair of the rental unit as well as moving the Tenant's items to storage charged by the Landlord	\$800.00
Filing fee	\$50.00
Total claimed	\$2,213.79

I grant the Landlords an order under section 67 for the amount of **\$2,213.79**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Tenant failed to clean and repair the rental unit and left her personal possessions to be dealt with by the Landlord. The Landlord is entitled to recover the costs associated with cleaning, repair, storage, packing and storage of the Tenant's items which were necessitated when the Tenant abandoned the rental unit. The Landlord is entitled to **\$2,213.79** which includes recovery of the cost of the filing fee. This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 16, 2015

Residential Tenancy Branch

