



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Code MNR, MND, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the "Act"), for a monetary order for unpaid rent, and for damages to the unit.

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified that the Application for Dispute Resolution and Notice of Hearing were served in person, on June 18, 2015, which was witnessed.

I find that the tenant has been duly served in accordance with the Act.

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

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent?
Is the landlord entitled to monetary compensation for damages?

Background and Evidence

The tenancy began on August 1, 2014. Rent in the amount of \$1,650.00 was payable on the first of each month. The tenancy ended on January 22, 2015.

On December 19, 2014, the parties were at a dispute resolution hearing and the landlord was granted an order of possession effective January 17, 2015, and a monetary order for unpaid rent up to and including December 2014.

On January 19, 2015, the landlord attended to the Supreme Court and obtained a Writ of Possession, which was executed by the Court Bailiff on January 22, 2015.

The landlord claims as follows:

a.	Supreme court fees	\$ 120.00
b.	Bailiff fees	\$2,992.86
c.	Unpaid rent for January 2015	\$1,650.00
d.	Stolen TV boxes	\$ 150.00
e.	Damages	\$ 750.00
f.	Loss of rent for February 2015	\$1,650.00
g.	Filing fee	\$ 50.00
	Total claimed	\$7,362.86

Supreme Court fees

The landlord testified that the tenant did not comply with the order of possession and they had to obtain a Writ of Possession in Supreme Court. The landlord seeks to recover the fees paid in the amount of \$120.00. Filed in evidence is receipt for payment of court fees.

Bailiff fees

The landlord testified that they had to enforce the Writ of Possession and they had to pay the Bailiffs for the enforcement. The landlord seeks to recover the cost of the Bailiffs fees in the amount of \$2,992.86. Filed in evidence is a breakdown of all court costs associated with the enforcement of the Writ of Possession from the Bailiffs.

Unpaid rent for January 2015

The landlord testified that the tenant did not pay any rent for January 2015, and removed from the rental unit by the Bailiffs on January 22, 2015. The landlord seeks to recover unpaid rent for January 2015, in the amount of \$1,650.00.

Stolen TV boxes

The landlord testified that cable was included in the rent. The landlord stated that the tenant was provided with three cable boxes, which were stolen by the tenant at the end of the tenancy. The landlord seeks to recover the amount of \$150.00.

Damages

The landlord testified that the tenant caused damage to the kitchen floor by deliberately loosening the tub hose and letting the water drip down inside the cabinet causing damage to the lower cabinets and the floor. The landlord stated that the cost of the repair was \$1,566.43, plus labour. However, they are only requesting the tenant pay for half of the materials for the floors in the amount of \$750.00, in the amount of \$1,650.00.

Loss of Revenue for February 2015

The landlord testified that due to the tenant not vacating when served with the order of possession, they were unable to commence advertising. The landlord stated that when the tenant vacated they discovered the damage to kitchen cabinets and the flooring, which the lower cabinets had to be removed and a new floor installed. The landlord stated that they also had to clean the rental unit. The landlord seeks to recover loss of revenue for the month of February 2015.

Analysis

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

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Supreme Court fees

The tenant failed to comply with the order of possession issued on December 16, 2014. The landlord was required to pay court fees to obtain a Writ of Possession in order to enforce order. I find the tenant breached the Act, when they failed to give the landlord vacant possession of the rental unit as required by the order of possession and this caused losses to the landlord. I find the landlord is entitled to recover the court fees they paid to obtain the Writ of Possession in the amount of **\$120.00**.

Bailiff fees

In this case, the tenant failed to comply with an order of possession, which required the tenant to give vacation possession of the rental unit on January 17, 2015, to the landlord. The landlord was required to enforce the order by obtaining a Writ of Possession and have the Bailiffs remove the tenant and return vacant possession of the unit to the landlord. I find the tenant breached the Act, when they failed to give the landlord vacant possession of the rental as required by the order of possession and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover the Bailiff fees in the amount of **\$2,992.86**.

Unpaid rent for January 2015

In this case, the tenant resided in the rental unit from January 1, 2015 to January 22, 2015, when they were removed by the Bailiffs. The tenant did not pay any rent to the landlord. I find the tenant breached the Act, when they failed to pay rent due under the terms of the tenancy agreement and this caused losses to the landlord. I find the landlord is entitled to recover unpaid rent for January 2015, in the amount of **\$1,650.00**.

Stolen TV boxes

I accept the undisputed testimony of the landlord that the tenant was provided with three cable boxes at the start of the tenancy and that those boxes were taken by the tenant at the end of the tenancy. I find the tenant breached the Act, when they removed property that they did not own and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover the cost of the cable boxes in the amount of **\$150.00**

Damages

I accept the undisputed testimony of the landlord that the tenant caused damage to the lower kitchen cabinets and kitchen floor. I find the tenant breached the Act, when the failed to make the repairs prior to the tenancy ending and this caused losses to the landlord.

In this case the landlord is claiming half the materials for the floor and no labour, I find that reasonable. Therefore, I find the landlord is entitled to recover the amount of **\$750.00**.

Loss of Revenue for February 2015

In this case, the landlord was unable to attempt to re-rent the unit until the tenant was removed by the Bailiffs on January 22, 2015. The tenant caused damage to the kitchen cabinets and flooring which had to be repaired. I find the tenant breached the Act, due to their actions of not vacating the rental unit when served with the order of possession, and due to the state of the condition the rental unit left, and this caused losses to the landlord as the landlord was unable to rent the unit for the month of

February 2015. Therefore, I find the landlord is entitled to recover loss of revenue in the amount of **\$1,650.00**.

I find that the landlord has established a total monetary claim of **\$7,362.86** comprised of the above described amounts and the \$50.00 fee paid for this application. I grant the landlord an order under section 67 of the Act.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlord is granted a monetary order in the above noted amount.

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: November 09, 2015

Residential Tenancy Branch

