



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MND, MNDC, MNSD

Introduction

This hearing dealt with cross applications. The landlord is seeking a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenants have filed an application seeking the return of double the deposit. The hearing was conducted via teleconference and was attended by the landlord and their legal counsel. No one was in attendance on behalf of the tenants.

The landlord submitted documentary evidence that the tenants were served notice of this application and this hearing by registered mail on September 17, 2015. Tracking information was submitted in the landlord's evidence. Based on the submissions of the landlord and their counsel, I find the tenants were deemed served notice of this proceeding on September 22, 2015, pursuant to section 90 of the *Act*. Therefore, I continued in the absence of the Tenant.

As the tenants chose not to participate in this hearing or submit any documentary evidence I hereby dismiss the tenants' application in its entirety.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?
Is the landlord entitled to retain the security deposit?
Is the landlord entitled to the recovery of the filing fee?

Background, Evidence

Counsel for the landlord made the following submissions. The tenancy began on February 1, 2013 and ended on July 31, 2015. The tenants were obligated to pay

\$1050.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$475.00 security deposit and a \$250.00 pet deposit. Counsel submits that the tenants abandoned the unit without any notice thus causing the landlord to suffer a loss of revenue for August 2015 in the amount of \$1050.00.

Counsel submits that the tenants' actions have caused extreme damage that goes well beyond normal wear and tear. Counsel submits that the tenants punched at least 10 fist sized holes into the wall. Counsel submits that the carpets were damaged and soiled so badly that they needed to be replaced. Counsel submits that the tenants' dog chewed and damaged the baseboards and the window ledge far beyond wear and tear. Counsel submits that the repairs to the above items cost the landlord \$1837.50.

The landlord gave the following testimony. The landlord stated that the unit was fully renovated prior to the tenants moving in and that the flooring and walls were new and undamaged.

The landlord is applying for the following:

1.	Loss of Revenue August 2015	\$1050.00
2.	Repairs	\$1837.50
3.	Filing Fee	\$50.00
	Total	\$2937.50

Analysis

1. Loss of Revenue - \$1050.00.

Section 45 of the Act addresses this issue as follows.

Tenant's notice

- 45** (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

As the tenants failed to give the landlord ANY notice, I find that they have breached the above section. The landlord was not given any opportunity to mitigate their losses and therefore is entitled to the loss of revenue for August 2015 in the amount of \$1050.00.

2. Repairs - \$1837.50.

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. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age

The landlord has submitted extensive documentation to support their claim. After reviewing the documentation, the submissions of counsel and the undisputed testimony of the landlord, I am satisfied that the landlord has provided sufficient evidence to support their claim. In making my decision I am mindful of Section 40 of the Residential Tenancy Policy Guidelines, however, based on the evidence before me; it's clear to me that the tenants caused extraordinary damage that was well beyond wear and tear.

The landlord is entitled to the amount as claimed, \$1837.50.

The landlord is entitled to the recovery of the filing fee.

Conclusion

The tenants' application is dismissed in its entirety.

The landlord has established a claim for \$2937.50. I order that the landlord retain the \$475.00 security deposit and \$250.00 pet deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2212.50. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: February 01, 2016

Residential Tenancy Branch

