



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ACTION PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The landlord's agent, (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenants did not attend or submit any documentary evidence. The landlord stated that both tenants were served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on October 9, 2015. The landlord has provided a copy of the Canada Post Customer Receipt Tracking numbers for both packages. The landlord stated that an online search of the Canada Post Website shows that both packages were received and signed for by both tenants on October 15, 2015. I accept the undisputed affirmed evidence of the landlord and find that both tenants were properly served as per sections 88 and 89 of the Act. Although both tenants signed in receipt of the notice of hearing package and the submitted documentary evidence, the tenants are deemed to have received those packages 5 days after October 9, 2015.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for damage, for unpaid rent or utilities, for money owed or compensation for damage or loss and recovery of the filing fee?
Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on August 4, 2015 on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated July 20, 2015. The monthly rent was \$1,550.00 payable on the 1st day of each month and a security deposit of \$775.00 was paid. A condition inspection report for the move-in was completed by both parties on August 4, 2015. An incomplete condition inspection report for the move-out was completed by the landlord only on October 2, 2015.

The landlord seeks a monetary claim of \$1,740.00 which consists of:

\$1,550.00	Unpaid Rent (October 2015)
\$140.00	General Cleaning (4hours at \$35/hr.)
\$50.00	Re-Keying Locks

The landlord stated that the tenants provided an email on October 2, 2015 notifying the landlord that the tenants had vacated the rental unit. The landlord stated that the tenants provided their forwarding address in this email. The landlord stated that attempts at contacting the tenants at the forwarding address to schedule a condition inspection report for the move-out were unsuccessful. The landlord stated that a condition inspection report for the move-out was completed without the tenants on October 2, 2015. The landlord stated that immediately upon being notified by the tenants, the landlord advertised the rental unit for immediate occupation for October 2015. The landlord stated that attempts at re-renting the rental premises were unsuccessful until April of 2016. The landlord stated that upon inspection, the rental unit was deemed to require cleaning as per the condition inspection report for the move-out on October 2, 2015. The landlord also stated that 2 keys were given to the tenants at the move-in and that only 1 key was returned.

The landlord has submitted in support of this application:

A statement from the Property Management for:

Unpaid October 2015 Rent	\$1,550.00
Suite Cleaning	\$140.00
Re-Keying Charge	\$50.00

A letter dated October 8, 2015 requesting their claim.

A signed tenancy agreement dated July 20, 2015.

A copy of the condition inspection report for the move-in and the move-out.

Analysis

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.

I accept the undisputed affirmed evidence of the landlord and find on a balance of probabilities that the tenant failed to provide proper notice to end the tenancy on October 2, 2015 resulting in unpaid rent of \$1,550.00 for October 2015.

I also accept the undisputed affirmed evidence of the landlord that the unit was left dirty requiring cleaning and that only 1 out of the 2 keys were returned. This required the landlord to have the rental premises cleaned for occupation and re-keyed.

The landlord has established a total monetary claim of \$1,740.00.

The landlord applied to keep the tenant's \$775.00 security deposit. I allow the landlord to retain the security deposit in partial satisfaction of the monetary award. No interest is payable over this period.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$1,735.00 under the following terms:

Item	Amount
Unpaid October 2015 Rent	\$1,550.00
Suite Cleaning	\$140.00
Re-Keying Charge	\$50.00
Offset Security Deposit	-775.00
Recovery of Filing Fee	50.00
Total Monetary Order	\$1,015.00

The landlord is provided with this order in the above terms and the tenant(s) must be served with this order as soon as possible. Should the tenant(s) fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial Court and enforced as orders 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: April 21, 2016

Residential Tenancy Branch