



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Devon Properties Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MND, MNSD, MNDC

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for damage to the unit - Section 67;
3. A Monetary Order for compensation - Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started on March 5, 2015 on a fixed term to end March 31, 2016. The Tenant moved out of the unit on March 21, 2016. Rent of \$715.00 was payable on the first day of each month. The Tenant paid full rent for March 2016. At the outset of the tenancy the Landlord collected \$357.50 as a security deposit. The Parties mutually conducted a move-in and move-out inspection. The Landlord completed a move-in inspection report and provided a copy to the Tenant. The Landlord completed a move-out inspection report and the Landlord provided a copy of the move-out report with the application for dispute resolution. The tenancy agreement provides for liquidated damages if the Tenant ends the tenancy early. The tenancy agreement provides for a fee of \$25.00 for each late rent payment, returned, or NSF cheque.

The Landlord states that although the Tenant paid for the full month of March 2016 as the Tenant wanted a refund of the March 2016 rent the Landlord is claiming liquidated damages of \$500.00. No rent refund was given to the Tenant.

The Landlord states that the Tenant failed to clean all the carpets in the unit and claims \$124.95. The Tenant states that, except for the living room, the carpets in the hallway, dining room and bathroom were damaged by a flood during the tenancy. The Landlord states that at the time of the flood the previous manager inspected the unit. No evidence of this inspection was provided. The Landlord states that while the Landlord was not present at move-out no carpets were damaged by the flood.

The Landlord states that two rent cheques were returned NSF during the tenancy and claims \$99.62 (\$100.00 less a credit of \$0.35.) The Tenant does not dispute the two NSF cheques.

The Landlord states that the Tenant failed to clean the fridge and stove and claims a combined cost of \$62.00. The Tenant does not dispute the lack of cleaning and states that he did not have time. The Parties agree that the Tenant owes \$24.00 for failing to clean the drapes.

It is noted that the Landlord did not claim recovery of the filing fee.

Analysis

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. As the Landlord received rent for the full term of the tenancy, regardless of the move-out date by the Tenant I find that the Tenant did not end the tenancy early and I dismiss the claim for liquidated damages.

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean. Although the Landlord denies damage to the carpet from a flood, there is no direct evidence to support this denial. Given the undisputed evidence of a flood and the Tenant's direct and plausible evidence of damage to the carpet from that flood I find that there was intervening damage to the carpets and that, with the exception of the living

room carpet, the Landlord has not substantiated the amount claimed. I find therefore that the Landlord is only entitled to a nominal sum of **\$50.00** for the cost to clean the living room carpet.

Given the terms of the tenancy agreement and based on the undisputed evidence of two NSF cheques I find that the Landlord has substantiated its claim to **\$99.62**.

Based on the undisputed evidence that the Tenant failed to clean the oven and fridge I find that the Landlord is entitled to the reasonable costs claimed of **\$62.00**. Given the agreement on the drapes I find that the Landlord is entitled to costs of **\$24.00**.

As the Landlord did not claim recovery of the filing fee I decline to award this cost.

Deducting the Landlord's total entitlement of **\$235.62** from the security deposit of **\$357.50** plus zero interest leaves **\$121.88** to be returned to the Tenant forthwith.

Conclusion

I Order the Landlord to retain \$235.62 from the security deposit plus interest of \$357.50 in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for **\$121.88**. If necessary, 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: September 07, 2016

Residential Tenancy Branch