



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNDC, MNSD, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for a monetary order for unpaid rent or utilities; for damage to the unit, site or property; for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant attended the call. The landlord testified that the tenant was served with the Landlord's Application for Dispute Resolution and notice of this hearing by registered mail on March 26, 2016 and has provided a copy of a Canada Post cash register receipt bearing that date as well as a Registered Domestic Customer Receipt stamped by Canada Post and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenant for unpaid rent?
- Has the landlord established a monetary claim as against the tenant for damage to the unit, site or property?
- Has the landlord established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for cleaning costs and recovery of the filing fee?
- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord testified that this month-to-month tenancy began on June 1, 2015 and the tenant moved out of the rental unit on November 15, 2015. Rent in the amount of \$850.00 per month was payable on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$425.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a room in a suite occupied by the landlord, but is not owned by the landlord. A copy of the tenancy agreement has been provided.

The landlord further testified that the tenant failed to pay rent for the months of September, October and November, 2015, but paid a total of \$165.00 during that period, leaving \$2,385.00 outstanding to the end of November, 2015. The landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on October 21, 2015 by posting it to the tenant's door. A copy has been provided and it is dated October 21, 2015 and contains an effective date of vacancy of October 31, 2015 for unpaid rent in the amount of \$850.00 that was due September 1, 2015. The tenant was in arrears of rent more than \$850.00 by that time, but the landlord didn't know what to put in that box, so the landlord entered the first month of rent that was overdue.

The landlord also testified that no move-in or move-out condition inspection reports were completed, however the tenant left a number of items in the rental unit so the landlord emailed the tenant who said he would return to retrieve them but didn't. The tenant emailed the landlord on March 24, 2016 with a forwarding address. Copies of numerous emails have been provided.

With respect to the claim for damages, the landlord testified that the tenant left food and beer cans and other items and the landlord paid a cleaner \$50.00 to clean it up. A receipt for that service has been provided.

The tenant damaged a dresser which is part of the rental and the landlord is responsible to her landlord for the cost to replace it. Photographs of the damaged dresser have been provided as well as an Ikea advertisement that the landlord found on the website. The landlord testified that it was in like-new condition and the item on the website is identical to the one that the tenant damaged in the rental unit. The landlord didn't notice it until after the tenant vacated. The advertisement shows a cost of \$399.99 plus taxes and delivery, and in hand-writing adds \$130.00 for assembly.

The landlord claims unpaid rent in the amount of \$2,385.00, cleaning costs of \$50.00, \$687.96 for replacing the broken dresser, and recovery of the \$100.00 filing fee, for a

total of \$3,222.96, and an order permitting the landlord to keep the \$425.00 security deposit in partial satisfaction of the claim.

Analysis

I accept the testimony of the landlord, and considering the notice to end the tenancy issued in October, 2015 and the emails, I am satisfied that the tenant is indebted to the landlord the sum of \$2,385.00 for unpaid rent to the end of November, 2015.

With respect to the landlord's claim for damages, the onus is on the landlord to establish that the damage or loss exists, that it exists as a result of the tenant's failure to comply with the *Act* or the tenancy agreement, the amount of such damage or loss, and what the landlord did to mitigate any damage or loss suffered. Further, the *Act* states that a landlord must ensure that move-in and move-out condition inspection reports are completed in accordance with the regulations, and that the reports are evidence of the condition of the rental unit at the beginning and end of the tenancy. In the absence of such reports, it's difficult to prove. However, a tenant is required to leave a rental unit at the end of a tenancy reasonably clean and undamaged except for normal wear and tear. I have reviewed the emails and photographs, and I am satisfied that the landlord did not leave food and beer cans in the tenant's living quarters, and I find that the tenant did not leave the rental unit reasonably clean. I find that the landlord has established the \$50.00 cleaning charge.

With respect to the broken dresser, the emails provided show that the tenant never did dispute his responsibility in that regard. I have also reviewed the website advertisement which shows that the cost is \$399.99, plus taxes, delivery, and assembly is included in handwriting at \$130.00. I am not satisfied that the landlord is entitled to the assembly costs. The email sent to the tenant specifies that the landlord will claim \$2,385.00 for rent and \$550.00 for the damaged dresser. The tenant agrees to those amounts in a response to the email, and I am satisfied that the parties exchanged numerous emails as a regular means of communication. Therefore, I accept the claim of \$550.00 for the damaged dresser.

The *Residential Tenancy Act* requires a landlord to return a security deposit to a tenant or make an application for dispute resolution claiming against it within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing. In this case, having found that the parties regularly communicated by email, I am satisfied that the landlord received the tenant's forwarding address in writing on March 24, 2016, which is not disputed by the landlord. The tenant moved out on November 15, 2015, after the effective date of the landlord's notice to end the tenancy. The landlord filed the application for dispute resolution on March 23, 2016,

prior to receiving the tenant's forwarding address in writing. Therefore, I find that the landlord has complied with the 15 day requirement.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

Having found that the landlord is owed \$2,385.00 for unpaid rent, \$50.00 for cleaning costs, \$550.00 for replacing the dresser, and recovery of the \$100.00 filing fee, I order that the landlord keep the \$425.00 security deposit in partial satisfaction and I grant the landlord a monetary order for the difference in the amount of \$2,660.00.

Conclusion

For the reasons set out above, I hereby order the landlord to keep the \$425.00 security deposit and I grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$2,660.00.

This order is final and binding and may be enforced.

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 01, 2016

Residential Tenancy Branch