



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 in response to the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

- a monetary order for compensation for unpaid rent, loss and damage pursuant to section 67;
- authorization to retain of all or a portion of the security deposit pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord testified that on May 26, 2016, a copy of the Application for Dispute Resolution and Notice of Hearing was sent by registered mail to the business address of tenant D.F. as permitted by the substituted service decision dated May 25, 2016. As per the registered mail tracking search submitted by the landlord, tenant D.F. signed for receipt of the package on May 31, 2016.

Based on the above evidence, I am satisfied that tenant D.F. was served with the landlord's Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenant. As tenant L.S. has not been served with the application for dispute resolution, any monetary orders issued will name only tenant D.F. as liable.

Issues

Is the landlord entitled to a monetary award for compensation for unpaid rent, loss and damage to the rental unit?

Is the landlord entitled to retain all or a portion of the security deposit pursuant to section 38?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background

The rental unit is a 3-bedroom townhouse unit. The tenancy began on August 1, 2015 with a monthly rent of \$1800.00 plus utilities payable on the 1st day of each month. The tenants paid a security deposit of \$900.00 at the start of the tenancy which the landlord continues to retain. The rental unit was purchased new by the landlord in 2007 and is approximately 9 years old with all original building elements. The landlord testified the tenancy ended in mid-January 2016 when tenants secretly vacated the rental unit

Evidence & Analysis

Based on the uncontested testimony and the documentary evidence provided by the landlord, my findings in relation to the various aspects of the landlords' application as set out on the Monetary Order Worksheet are as follows:

#1: *interior repairs*

#2: *garage door panels*

#4: *cleaning*

#5: *carpet steam cleaning*

#7: *dump fee*

The landlord submitted receipts for repairs conducted for damaged bathroom and master bedroom doors, damaged walls, garage door, cleaning, carpet steam cleaning and dump fee. The landlord testified a condition inspection was not performed at the start or end of the tenancy but testified that the damage was done by the tenants and provided pictures as evidence of the damage.

Section 7 of the Act provides for an award for compensation for damage or loss as a result of a landlord or tenant not complying with this Act, the regulations or their tenancy agreement.

Section 37 of the Act requires that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonable clean and undamaged except for reasonable wear and tear.

I accept the landlord's testimony and photo evidence in support of the landlord's claim that the tenant did not leave the rental unit reasonably clean and undamaged as per section 37 of the Act.

Residential Tenancy Policy Guideline 40, Useful Life of Building Elements, provides that doors and drywall have a useful life of 20 years. As these items were 9 years old at the end of the tenancy, they had 11 years of useful life remaining. As such, I find the landlord is entitled to 55% of the actual replacement cost (\$580.00 plus 5% tax) for an award of **\$334.95**.

As per the above policy, interior paint has a useful life of 4 years. As such the paint had exhausted its useful life and this portion of the interior repair cost is dismissed.

As per the above policy, garage doors have a useful life of 10 years. As this was 9 years old at the end of the tenancy, I find the landlord is entitled to only 10% of the actual replacement cost (\$792.40) for an award of **\$79.24**.

For the cleaning of the rental unit including the steam cleaning of the carpet plus the dump fee I find the landlord is entitled to the amounts as claimed as supported by the invoices for an award of **\$383.15**.

#3: unpaid rent

#6: BC Hydro

#8: bounced cheque

The landlord is claiming unpaid rent for the months of January to April 2016. The landlord testified that the rental unit was put on sale in March 2016 and sold in April 2016. The landlord did not make any attempts to re-rent the unit as her realtor advised her it would be difficult to show to prospective buyers if occupied. The landlord testified that repair work took until the end of February to complete.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I accept the landlord's testimony and find the tenant was obligated to pay rent in the amount of \$1800.00 but failed to pay rent for the month of January 2016. I dismiss the landlords claim for unpaid rent beyond the month of January 2016 as the tenants vacated the rental unit in mid-January and the landlord did not make any attempt to

mitigate losses by re-renting the unit. The evidence of damage and repairs required were not extra-ordinary as such I find it unreasonable that the repairs took until the end of February to complete. I find the landlord is entitled to an award of **\$1800.00** for unpaid rent.

The landlord is claiming unpaid utilities for the period of January to April 2016. The bills provided by the landlord are for a period beginning on January 22, 2016 which is after the tenant had vacated the rental unit. This aspect of the landlord's claim is dismissed.

I accept the landlord's testimony that the tenants rent cheque for the month of January 2016 was returned due to non-sufficient funds and the landlord is awarded **\$20.00**.

#9: filing fee

As the landlord was for the most part successful in this application, I find that the landlord is entitled to recover the **\$100.00** filing fee paid for this application.

The landlord is entitled to a total monetary award of **\$2,717.34**.

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of **\$2,717.34**. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: October 28, 2016

Residential Tenancy Branch