



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VALLEY REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the corporate Landlord for a Monetary Order for: damage to the rental unit; for unpaid rent and utilities; for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the “Act”), regulation or tenancy agreement; to keep the Tenant’s security and pet damage deposits; and, to recover the filing fee from the Tenant.

An agent for the Landlord (the “Landlord”) appeared for the hearing and provided affirmed testimony as well as documentary evidence prior to the hearing. There was no appearance for the Tenant during the 15 minute hearing or any submission of evidence prior to the hearing. Therefore, I turned my mind to the Landlord’s service of documents.

The Landlord testified that the Tenant was served with a copy of the Application and the Notice of Hearing documents by registered mail on May 19, 2016 to the forwarding address the Tenant provided after the tenancy had ended. The Landlord provided the Canada Post tracking number into evidence and testified that the Canada Post website shows that the documents were signed and received for on May 30, 2016. Based on the undisputed evidence of the Landlord, I find the Tenant was served with the required documents pursuant to Section 89(1) (c) of the Act. The hearing continued to hear the undisputed evidence of the Landlord as follows.

Issue(s) to be Decided

- Is the Landlord entitled to unpaid rent and utilities?
- Is the Landlord entitled to damages to the rental unit and compensation for having to dispose of the Tenant’s personal property?
- Is the Landlord entitled to keep the Tenant’s security and pet damage deposits?

Background and Evidence

The Landlord testified that this tenancy started on September 5, 2014 for a fixed term of one year which then continued on a month to month basis thereafter. A written tenancy agreement was completed which required the Tenant to pay rent in the amount of \$1,800.00 on the first day of each month and utilities, namely the water and sewer bill.

The Tenant paid the Landlord a security deposit of \$900.00 on September 3, 2014 and a \$900.00 pet damage deposit by February 2015; these are herein referred to collectively as the "Deposits" in this Decision. The Landlord still retains the \$1,800.00 Deposits.

The Landlord completed a move-in Condition Inspection Report (the "CIR") on September 4, 2014 and provided this into evidence. The Landlord testified that the Tenant was served with a notice to end tenancy for cause which had a vacancy date of April 30, 2016 detailed on it. The Landlord testified that the Tenant failed to dispute the notice to end tenancy but did not move out of the rental unit until May 5, 2016. The Landlord testified that a move-out CIR was completed with the Tenant on May 5, 2016 which is when the Tenant provided her forwarding address on the CIR.

The Landlord testified that the Tenant was habitually late paying rent and utilities in this tenancy and often made partial payments. The Landlord provided the Tenant's ledger into evidence to show that by the time the tenancy ended, the Tenant was in rental and utility arrears of \$2,462.34.

The Landlord testified that the Tenant damaged the blinds in all of the bedrooms of the rental unit and caused extensive damage to the walls throughout the rental unit. The Landlord testified that the damage to the walls consisted of large holes and scuff marks that went beyond reasonable wear and tear. The Landlord testified that the door to the north bedroom 2 had been damaged by the Tenant which required replacement. The Landlord claims \$375.00 for the blind replacement, \$2,100.00 for re-painting the rental unit; and \$32.40 for the door replacement.

The Landlord testified that at the time the move-out CIR was completed, it was noted that the Tenant had left a couch, chair, desk and a box spring mattress in the rental unit. The Landlord pointed me to the move-out CIR which documented instructions to the Tenant to have these removed by May 9, 2016. The Landlord testified that the Tenant failed to remove them by this date and as a result, they had to hire a U-Haul truck to remove the property at a cost of \$69.25.

The Landlord testified that after the Tenant vacated the rental unit, they discovered that the rental unit was infested with fleas. As a result, the Landlord had to have the entire rental unit treated for the pest problem at a cost of \$250.01.

Throughout the hearing, the Landlord referred me to the CIR to evidence the damages to the rental unit and to invoice and receipts provided to verify the costs being claimed. The Landlord withdrew her monetary claim for the furnace repair because she stated that was the Landlord's responsibility to bear. The Landlord's total monetary claim is \$5,289.00.

Analysis

Section 26(1) of the Act states that a tenant is required to pay rent when it is due under the tenancy agreement whether or not the landlord complies with the Act unless the tenant has authority under the Act to deduct or withhold it. I accept the undisputed evidence of the Landlord that the Tenant failed to pay rent and utilities during this tenancy. There is no evidence before me to show that the Tenant had authority under the Act to withhold or make deduction to rent or utilities. Therefore, I accept the Landlord's ledger evidence that the total rent and utilities owing at the end of the tenancy was \$2,462.34 which is hereby awarded to the Landlord.

Section 37(2) of the Act requires a tenant to leave a rental unit reasonably clean and undamaged at the end of a tenancy. In addition, Section 21 of the *Residential Tenancy Regulation* allows a CIR to be considered as evidence of the state of repair and condition of the rental unit, unless a party has a preponderance of evidence to the contrary. Based on the foregoing and the lack of any evidence from the Tenant, I accept the Landlord's undisputed evidence that the Tenant caused the damage to the door, bedroom blinds, and to the walls of the rental unit. The Tenant is liable for these costs.

I also accept the Landlord's undisputed evidence that the Tenant failed to remove all of her personal belongings from the rental unit at the end of the tenancy and in any case by the deadline provided by the Landlord. Therefore, I award the Landlord to removal costs claimed. I accept the Landlord's oral evidence that the Tenant failed to leave the rental unit free of pests and award the Landlord the costs for having to remediate the pest problem. Therefore, I grant the Landlord's monetary claim of \$5,289.00 in full.

As the Landlord has been successful in this matter, the Landlord is also entitled to the \$100.00 filing fee for the cost of this Application, pursuant to Section 72(1) of the Act. Therefore, the total amount awarded to the Landlord is \$5,389.00.

In relation to the Landlord's request to keep the Tenant's Deposits, I find the Landlord made the Application within the 15 days provided for by Section 38(1) of the Act. Accordingly, as the Landlord already holds \$1,800.00 in the Tenant's Deposits, I order the Landlord to retain this amount in partial satisfaction of the claim awarded, pursuant to Section 72(2) (b) of the Act. As a result, the Landlord is granted a Monetary Order for the outstanding balance of \$3,589.00.

Conclusion

The Tenant has breached the Act by not paying rent and causing damage to the rental unit. Therefore, the Landlord may keep the Tenant's Deposits and I grant the Landlord a Monetary Order for the remaining balance of \$3,589.00.

Copies of this order are attached to the Landlord's copy of this Decision. This order must be served on the Tenant and may then be filed in the Small Claims Division of the Provincial Court and enforced as an order of that court. The Tenant may also be liable for the enforcement costs of the order.

This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: November 21, 2016

Residential Tenancy Branch