



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MND, MNSD

Introduction

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

- a monetary order for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

The hearing was conducted via teleconference and was attended by the landlord. No one was in attendance on behalf of the tenant. The landlord submitted documentary evidence that the tenant was served notice of this application and this hearing by registered mail on June 2, 2016. Canada Post tracking information was submitted in the landlord's evidence. Based on the submissions of the landlord, I find the tenant was deemed served notice of this proceeding on June 7, 2016, pursuant to section 90 of the *Act*. Therefore, I continued in the absence of the tenant.

Issue to be Decided

Is the landlord entitled to a monetary award for damage arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

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

Background, Evidence

The landlord's undisputed testimony is as follows. The tenancy began on April 13, 2016 and ended on May 28, 2016. The tenants were obligated to pay \$1850.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$925.00 security deposit. The landlord testified that the tenant refused to sign the condition inspection reports at move in or move out despite numerous attempts at having her do so. The landlord testified that the tenant damaged the stove that required a \$600.00 repair. The landlord testified that the tenant also damaged a window cover bar and left the unit very dirty. The landlord testified that he conducted the work and seeks \$400.00 for the cleaning and miscellaneous repairs.

Analysis

The landlord submitted extensive documentation for this hearing. I address the landlords' claims and my findings as follows.

1. Stove - \$600.00

The landlord provided undisputed testimony, an invoice and the condition inspection report to support this claim. I find that the landlord is entitled to \$600.00.

2. Cleaning and Miscellaneous Repairs - \$400.00

The landlord testified that he conducted all of the cleaning, removing of graffiti and floor cleaning in 8 hours and fixed the window bar cover in one hour. He is seeking \$400.00 for that claim. I accept the landlords' undisputed testimony that he conducted these repairs as is reflected in the condition inspection report but I find that \$25.00 per hour X 9 hour's work is the appropriate amount for an award of \$225.00.

The landlord is also entitled to the recovery of the \$100.00 filing fee.

In coming to my findings as noted above I have considered the following:

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. The landlord was also seeking the recovery of registered mail fees. It was explained that the Act does not allow for the recovery of these costs and that portion of the landlords' application is dismissed. The landlord indicated he understood.

Conclusion

The landlord has established a claim for \$925.00. I order that the landlord retain the \$925.00 security deposit in full satisfaction of the claim.

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: November 22, 2016

Residential Tenancy Branch