



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD, FF

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

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution, notice of hearing and evidence package in person on June 21, 2015. I find that the Landlord has therefore served the application for dispute resolution in accordance with Section 89 of the Act. The Tenant did not attend the hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions under oath.

Preliminary Matters

The Landlord filled out an Amendment form and gave a copy to the Tenant prior to filing the Amendment with the Residential Tenancy Branch. The Landlord seeks to increase the total monetary amount being claimed and to correct a typographic error on the dispute address. As the Landlord did not make the Amendment with the RTB prior to serving it I cannot find that the Amendment was properly served. However as the

original application sets out reference to the included monetary order worksheet and as this worksheet was previously provided to the Tenant with the evidence package I am satisfied that the Tenant has received the required notice of the total claimed amount as set out in the monetary order worksheet. I accept an amendment to correct the dispute address as there is no prejudice to the Tenant in making this amendment.

At the Hearing the Landlord stated that his last name and the Tenant's last name were the same. It was noted at the hearing that the spelling on the application was made in error. Given the Landlord's evidence I amend the application to correct the spelling of the Landlord's last name.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The Landlord is the father of the Tenant. The tenancy started on October 1, 2015 and ended on April 30, 2016. No security deposit was collected. No move-in or move-out inspection was conducted. The Landlord refers to a previous hearing on a dispute. It is noted that at this previous hearing the Landlord was granted an order of possession and a monetary order for unpaid February, March and April 2016 rent. The Landlord accepted the verbal provision of a forwarding address from the Tenant on May 21, 2016.

The Tenant left the unit with damages. The Landlord states that he does not know the age of the unit that was left with damage to the walls, doors and all cabinets, specifically punched holes on walls and doors, dismantled doors, and missing bi-fold doors. The Landlord states that tub tiles had to be replaced due to rot. The tub tiles are as old as the building. The Landlord states that the Tenant grew marihuana plants in the bathtub. The Landlord states that no plants were ever seen by the Landlord but that the Landlord "knows" his son. The Landlord states that the Tenant likely kicked the toilet causing the

toilet base seal to be damaged which in turn caused a leak to the lower unit. The Landlord claims \$4,200.00 for the repairs.

The Landlord claims \$1,650.00 to arrange, organize and pay painters. The Landlord agrees that these are landlord's duties. The Landlord states that in damaging the bathroom cabinets the Tenant also caused the pipes to be damaged. The Landlord claims \$909.00 for the plumbing repairs.

The Landlord claims \$729.75 to repair the ceiling in the lower unit that was damaged by the leak from the toilet. The Landlord withdraws the claim for the replacement of bathtub valves.

The Landlord had a waiting list of prospective tenants for the dispute address so the Landlord did not advertise the unit. The rental rate remained the same for the next tenancy. The Landlord cannot recall when the next tenancy started. The Landlord cannot state when the repairs to the unit started but that it took about 4 weeks and were finished by the end of May 2016. It is noted that the invoice detailing the repairs done to the unit is dated April 15, 2016. The Landlord claims lost rental income for May and June 2016 due to the damages left by the Tenant.

The Landlord provided photos of the unit. It is noted that the photos are primarily blurred. There are no photos that can be made out to depict any damage to any kitchen or bathroom cabinets, pipe damage, bathroom tile damage, toilet damage, wall damage or ceiling damage. One photo shows an apparent undamaged closet door standing alone, two photos show two damaged doors and another photo shows a hole in a door. The remaining photos show furnishings, clothing, and personal articles lying around and food left inside a fridge.

Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable

wear and tear. 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. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established.

As the Landlord provided no evidence of when the ensuing tenancy started, it cannot be determined that the Landlord lost rental income for either May or June 2016. I also note that the invoice for repairs to the unit is dated April 15, 2016 and the Landlord gives evidence that the tenancy ended April 30, 2016. This evidence does not support that repairs to the unit were done after the end of the tenancy or that the time taken for the repairs caused any lost rental income and I note that the Landlord was previously awarded unpaid rent for April 2016. As a result I find that the Landlord has failed to provide evidence to support its claim for lost rental income and I dismiss this claim.

Overall I found the Landlord's evidence to be vague or evasive. The Landlord's evidence of the cause of the bathroom tile rot, the plumbing and the broken seal on the base of the toilet did not hold a ring of truth. Further there are no photos that show any damage except to doors. There are no photos of damaged pipes, damaged walls, damaged cabinets, damaged tiles or damaged toilet. There is no move-in or move-out condition report. As a result I cannot find that the Landlord has substantiated that the Tenant caused any damage other than to the doors. As there is no itemized cost for the repair or replacement of these doors I can only find that the Landlord has only substantiated a global amount of **\$500.00**. I dismiss all the remaining costs claimed by the Landlord, including the claims for the time to arrange the painting repairs and the claims to repair the ceiling of the lower unit.

As the Landlord's application has met with some success I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$600.00**.

Conclusion

I grant the Landlord an order under Section 67 of the Act for **\$600.00**. 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: December 22, 2016

Residential Tenancy Branch