



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

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

- a monetary order for damage to the rental unit pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The landlord attended the hearing via conference call and provided undisputed affirmed testimony. The landlord stated that her agent, J.C. would conduct the hearing on her behalf. The tenant did not attend or submit any documentary evidence. The landlord's agent (the landlord) stated that the tenant was served via courier on July 13, 2016. I accept the undisputed affirmed evidence of the landlord and find that the tenant was properly served as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for damage to the rental unit and recovery of the filing fee?

Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on June 8, 2015 on a fixed term tenancy ending on May 31, 2016 and then thereafter on a month-to-month basis as shown by the submitted copy of the signed tenancy

agreement. The monthly rent was \$1,380.00 payable on the 1st day of each month. A security deposit of \$690.00 was paid on June 10, 2015. No condition inspection reports for the move-in or the move-out were made.

The landlord seeks a monetary claim of \$8,911.62 which was lowered from \$9,158.12 due to some claims being initially made with estimates. The landlord stated that the new lowered claim accurately reflects the actual amount spent bringing the rental unit to a habitable state. The claim consists of:

\$210.00	Janitorial Services, Cleaning
\$600.00	Painting, Walls
\$17.74	Replacement of closet knobs
\$1,176.00	Replace Bathroom Vanity
\$2,820.00	Replace Flooring
\$282.50	Replace Bathtub and Tiles
\$1,575.00	Labour to Replace Bathtub and Tiles
\$2.50	Replace Missing Key
\$133.88	Water Leak Inspection for #902
\$714.00	Replace Flooring for #902 due to water leak

The landlord stated that the tenant caused a water leak by failing to use a shower curtain and was negligent in taking due care by causing a water leak to damage to the flooring and tiles. The landlord stated that water travelled to an adjacent unit causing damage to the flooring in #902. The landlord also stated that the tenant vacated the rental unit leaving it dirty and damaged requiring restoration work. The landlord provided written details that due to the tenant's neglect the rental unit was un-rentable due to the damage.

In support of the claim, the landlord has submitted:

- Copies of 11 Invoices/receipts for each of the above noted claims
- A copy the signed tenancy agreement dated June 10, 2015
- 9 photographs showing the condition of the rental unit at the end of tenancy
- 2 photographs of emails from the strata management company regarding a water leak caused by the tenant

Analysis

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.

In this case, the landlord presented undisputed evidence that the tenant caused a water leak damaging the rental unit and the adjacent unit. The landlord also presented undisputed evidence that the tenant vacated the rental unit leaving it dirty and damaged as shown in the submitted 9 photographs. The landlord provided undisputed evidence in the form of invoices and receipts for all 11 items of claim. I accept the undisputed affirmed evidence of the landlord and find in the absence of any evidence to the contrary that the landlord has established a claim for compensation. The landlord is entitled to the monetary claim of \$8,911.62.

The landlord having been successful in her application is entitled to recovery of the \$100.00 filing fee.

I authorize the landlord to retain the \$690.00 security deposit in partial satisfaction of the claim.

Conclusion

The landlord is granted a monetary order for \$8,321.62.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the 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: January 05, 2017

Residential Tenancy Branch