



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, FF

Introduction

On September 28, 2016, the Landlord submitted an Application for Dispute Resolution for a monetary order for unpaid rent or utilities; for damage to the rental unit, and to recover the cost of the filing fee.

The matter was set for a conference call hearing. The Landlord attended the teleconference hearing; however, the Tenant did not. The Landlord provided affirmed testimony that she served the Tenant with the Notice of Hearing by registered mail on September 29, 2016. The Landlord provided a copy of the registered mail receipt as proof of service.

The Landlord testified that she also served the Notice of Hearing on the Tenant on December 15, 2016, at the court house. She submitted that she also spoke to the Tenant approximately one month prior to the hearing and the Tenant said he would be attending the hearing. I find that the Tenant has been duly served with the Notice of Hearing in accordance with sections 89 and 90 of the Act.

The Landlord was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

Issues to be Decided

- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Is the Landlord entitled to compensation due to damage?
- Is the Landlord entitled to compensation for damage or loss under the Act?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord testified that on August 10, 2016, she received an order possession for the Tenant to vacate the rental unit.

The Landlord testified that the Tenant failed to vacate the unit rent and left the rental unit unclean and took some of the Landlord's possessions.

The Landlord is seeking compensation in the amount of \$7,306.78 for the following items:

Legal Fees	\$1,792.00
Pest Inspection	\$262.50
Pest Control Treatment	\$590.65
September 2016 rent	\$1,580.00

Cleaning	\$217.00
Carpet Cleaning	\$131.25
FOB replacement	\$30.00
Bailiff fees	\$1,883.05
Apartment Accessories	\$510.33
Unique Accommodations	\$210.00

Legal Fees \$1,792.00

The Landlord testified that she needed to get legal advice because the Tenant was threatening her with legal action. The Landlord hired a lawyer who provided her with legal advice. The Lawyer did not assist the Landlord at Supreme Court. The Landlord is requesting that the Tenant be responsible to pay her legal costs of \$1,792.00. The Landlord provided a receipt for the legal advice.

Pest Inspection \$262.50

The Landlord testified that the Tenant intentionally brought bed bugs into the rental unit in attempt to get compensation. She testified that she provided the Tenant with a sofa from her house that was clean, and the Tenant claimed it was infested with bedbugs. The Landlord arranged for pest inspection and found no bed bugs. The Tenant attended the pest control company with a sample of bed bugs. The Landlord then arranged for another inspection. The Landlord is seeking the cost of for the pest inspection. The Landlord provided receipts for the cost of the inspections.

Pest Control Treatment \$590.65

The Landlord testified that after the tenant introduced bedbugs, she needed to have the rental unit treated twice for bed bugs. The Landlord is seeking to recover the cost of the bed bug treatments. The Landlord provided a copy of the receipt for the bed bug treatments.

Rent \$1,580.00

The Landlord testified that she obtained an order of possession for the rental unit but the Tenant refused to vacate. The Landlord testified that she had a bailiff remove the Tenant on September 9, 2016. The Landlord testified that she suffered a loss of September 2016, rent due to the Tenant overholding the rental unit. The Landlord testified that she was not able to rent the unit out for the month of September 2016.

Cleaning \$217.00

The Landlord testified that the Tenant did not clean the rental unit prior to being removed by the bailiff. She testified that the rental unit was extremely dirty and she needed to hire a cleaning service. The Landlord is seeking to recover the cleaning costs. The Landlord provided a copy of a receipt from a company for cleaning the rental unit in September 2016.

Carpet Cleaning \$131.25

The Landlord testified that the Tenant did not clean the carpets at the end of the tenancy. The Landlord testified that the tenancy agreement has a term that requires the tenant to clean the carpet at the end of the tenancy. The Landlord is seeking the cost of having the carpets professionally cleaned. The Landlord provided a receipt dated September 14, 2016, for the cost of the carpet cleaning.

FOB Replacement \$30.00

The Landlord testified that the Tenant failed to return the door key to the common area at the end of the tenancy. The Landlord is seeking the replacement cost of the key fob. The Landlord provided a copy of a receipt dated September 14, 2016, for the cost of replacing the key fob.

Bailiff fees \$1,883.05

The Landlord is seeking to recover the costs of the bailiff fees to remove the Tenant and his possessions from the rental unit. She testified that the bailiff attended the property on September 9, 2016, and removed the Tenant's possessions. The Tenant provided a letter from consolidated active bailiff dated September 15, 2016. The letter states that two court bailiffs attended the rental property and packed the Tenant's property and loaded it into a truck and took it to storage. The Landlord provided a copy of the invoice from the bailiff in the amount of \$1,883.05.

Apartment Accessories \$510.33

The Landlord testified that bedding and other apartment accessories are missing from the rental unit. The Landlord testified that it is possible that the bailiffs removed some of the items. She submits that she gave the bailiff a list of items that should not be removed. She testified that she did not contact anyone to determine whether the bailiffs packed up the possessions. The Landlord provided a copy of a receipt for the purchase of items that she submits were removed from the unit.

Unique Accommodations \$210.00

The Landlord is seeking to recover the cost of employing an agency to promote and re-rent her rental unit. The Landlord provided an invoice dated September 15, 2016, in the amount of \$420.00. The Landlord is only seeking to recover \$210.00.

Analysis

Under section 67 of the *Act*, if the director determines that damage or loss has resulted from a party not complying with the *Act*, the regulations or a tenancy agreement, the director may:

- determine the amount of compensation that is due; and
- order that the responsible party pay compensation to the other party.

Based on the testimony and evidence of the Landlord, and on a balance of probabilities, I make the following findings:

The Tenant was served with the Notice of Hearing in accordance with the Act and failed to attend the hearing. The Landlord's testimony and evidence is unopposed.

I find that many of the Landlord's claims stem from the Tenant's refusal to vacate the unit in compliance with the legal order of possession. The Tenant's possessions had to be removed by the bailiffs and the rental unit was left in a dirty condition. The Landlord's claims are reasonable in the circumstances and supported by receipts. I grant the following claims of the Landlord:

Pest Inspection	\$262.50
Pest Control Treatment	\$590.65
September 2016, rent	\$1,580.00
Cleaning	\$217.00
Carpet Cleaning	\$131.25
FOB replacement	\$30.00
Bailiff fees	\$1,883.05

The following claims of the Landlord are dismissed.

Legal Fees \$1,792.00

The Landlord's claim to recover the costs for legal advice is dismissed. An Arbitrator can award costs when there has been a finding of a breach of the Act, and where there is evidence of a loss. The Act does not specifically permit an award for legal costs.

I find that I do not have the authority to award legal costs and the Landlord is responsible for the costs of obtaining the legal advice.

Apartment Accessories \$510.33

The Landlord's claim for the replacement of apartment accessories is dismissed. The Landlord was not sure whether the bailiffs removed the items or whether the Tenant removed the items. The Landlord made no attempt to follow up on the issue. In the circumstances, I find there is insufficient evidence to prove the Tenant is responsible for the missing items.

Unique Accommodations \$210.00

The Landlord's claim to recover the cost of hiring a company to manage the property is dismissed. The cost of hiring a property management firm is a cost the Landlord is responsible for when doing business as a Landlord. The Tenant is not responsible to pay for the Landlord's property management costs.

Filing Fee

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$4,794.45.

I grant the Landlord a monetary order in the amount of \$4,794.45. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Tenant refused to vacate the unit in compliance with an order of possession and failed to attend the hearing.

The Landlord is granted a monetary order for damage, bailiff costs, loss of rent, and the cost of the filing fee.

I grant the Landlord a monetary order in the amount of \$4,794.45.

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: April 28, 2017

Residential Tenancy Branch