



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

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

- a monetary order for unpaid rent and for money owed or compensation 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 and pet 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 landlord testified and supplied documentary evidence that she served the tenants with the Notice of Hearing, documentary evidence and Application for Dispute Resolution by registered mail, sent on November 19, 2016. The landlord provided tracking information from Canada Post indicating the mail had been signed for and accepted on November 30, 2016. I find the tenants have been duly served in accordance with the Act.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issue to be Decided

Is the landlord entitled to a monetary award for unpaid rent damages to the unit and losses arising out of this tenancy?

Is the landlord entitled to retain the security and pet deposits in partial satisfaction of the claim?

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 September 1, 2015 and ended on October 31, 2016. The tenants were obligated to pay \$800.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$400.00 security deposit and \$400.00 pet deposit. The landlord testified that the tenants left the unit "absolutely filthy and disgusting" at move out. The landlord testified that the tenants participated in the written condition move in inspection but not the move out. The landlord testified that the carpets were so dirty, stained and smelled so bad that they had to be replaced. The landlord testified that the carpets were three years old when the tenants moved out but were in new like condition when they moved in. The landlord testified that the tenants didn't pay the rent for October 2016 or the utilities for several months as required per their tenancy agreement.

The landlord testified that the unit was so dirty and filled with rubbish and garbage, it wasn't suitable for rental. The landlord testified that new carpets were installed; numerous small repairs were done in the unit, extensive deep cleaning, and rubbish and garbage removal. The landlord testified that because the unit was in such rough shape it took several weeks to get it back to a state that it could be rented and is seeking the loss of revenue for the month of November.

The landlord is applying for the following:

1.	Unpaid Rent October	\$680.00
2.	Unpaid Utilities	705.09
3.	Carpet Replacement	1129.40
4.	Cleaning, Repairs, Rubbish Removal	1154.10
5.	Loss of Revenue November	800.00
6.	Registered Mail Costs	75.28
7.	Filing Fee	100.00
8.	Less Deposits	-800.00
	Total	\$3893.95

Analysis

While I have turned my mind to all the documentary evidence and the testimony of the landlord, not all submissions and arguments are reproduced here. The principal aspects of the landlord's claim and my findings around each are set out below.

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 submitted extensive documentation for this hearing, including photos, receipts, and correspondence with the tenants.

I address the landlords claim and my findings as follows.

Unpaid Rent for October 2016

The landlord testified that the tenants only paid \$120.00 of the rent for that month and despite numerous requests to pay it in full, the tenants declined. Based on the undisputed testimony of the landlord and the documentation before me, I find that the landlord is entitled to \$680.00.

Unpaid Utilities

The landlord provided the tenancy agreement and the utilities bills to support her claim. Based on the undisputed testimony of the landlord and the documentation before me, I find that the landlord is entitled to \$705.09.

Carpet Replacement

The landlord provided photos, the bill and undisputed testimony to support this claim. Residential Tenancy Policy Guideline 40 addresses the useful life of building elements and has carpets listed at 10 years. The landlord advised that the carpets were three

years old when the tenants moved out. I find that applying the above, the landlord is entitled to 70% of the \$1129.40 as claimed for an amount of \$790.58.

Cleaning, Repairs, Rubbish Removal

The landlord provided receipts, photos and undisputed testimony to support this claim. Based on the undisputed testimony of the landlord and the documentation before me, I find that the landlord is entitled to \$1154.18.

Loss of Revenue November 2016

The landlord testified that it took several weeks before the unit was back to a state that was suitable for rental. The landlord has provided photos and bills to illustrate the scope of work and time involved to return the unit to a reasonable state. Based on the undisputed testimony of the landlord and the documentation before me, I find that the landlord is entitled to \$800.00 loss of revenue for the month of November as the tenants left the unit in a condition that was un-rentable thus causing the landlord to suffer a loss.

Registered Mail Cost

It was explained to the landlord that the Act does not allow an Arbitrator to award the recovery of these costs. The landlord indicated that she understood. I dismiss this portion of the landlords' application.

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

Conclusion

In summary, the landlord has been successful in the following claims:

Unpaid Rent October 2016	\$680.00
Unpaid Utilities	705.09
Carpet Replacement	790.58
Cleaning, Repairs, Rubbish Removal	1154.18
Loss Revenue November 2016	800.00
Filing Fee	100.00
Less Deposits	-800.00

Total:	\$3429.85

I order that the landlord retain the security and pet deposits in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3429.85. 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: May 18, 2017

Residential Tenancy Branch