



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Code MNR, MND, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for unpaid rent, for damages to the unit, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee from the tenant.

The landlord attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on November 22, 2016, Canada post tracking numbers were provided as evidence of service.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenants have been duly served in accordance with the Act.

The landlord appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

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

Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to monetary compensation for damages?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on September 26, 2014. Rent in the amount of \$750.00 was payable on the first of each month. The tenants paid a security deposit of \$375.00. The tenancy ended on December 15, 2014.

The landlord claims as follows:

a.	Unpaid rent for December 2014	\$ 750.00
b.	Cleaning and repairs	\$ 583.15
c.	Replace locks	\$ 65.00
d.	Replace to broken windows	\$ 300.00
e.	Loss of January 2015 rent	\$ 750.00
f.	Filing fee	\$100.00
	Total claimed	2,548.15

The landlord testified that the tenants did not pay any rent for December 2014. The landlord stated that the tenants told the landlord to keep the security deposit, but the landlord stated that they did not agree to that.

The landlord testified that the tenants stained the carpet with dye and it was dirty from the tenants' bikes leaving grease marks. The landlord stated they paid the amount of \$175.00 to have the carpets cleaned. The landlord stated that there was garbage piled everywhere and there were round spots of blood on the walls. The landlord stated that they paid the amount of \$155.00 to have the garbage removed and the walls washed. The landlord stated that there were large holes in the drywall from the tenants' bikes hitting the walls and the carpet needed to be repaired. The landlord stated that they paid the amount of \$215.00. The landlord stated they paid GST on the above amounts. The landlord seeks to recover the amount of \$583.15. Filed in evidence is a receipt and photographs supporting the landlord's testimony.

The landlord stated that the tenants did not leave the keys at the end of the tenancy and they had to have the locks changed. The landlord seeks to recover the amount of \$65.00.

The landlord testified that the tenants broke two windows and the cost of the repair was \$300.00. Filed in evidence are photographs of the broken window.

The landlord testified that because of the damaged windows and the state of the rental unit they were not able to rent the premises for the month of January 2015. The landlord seeks to recover loss of rent in the amount of \$750.00.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Section 26 of the Residential Tenancy Act states:

26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I accept the undisputed evidence of the landlord that the tenants failed to pay rent for December 2015. I find the tenants breached the Act and the landlord suffered a loss. Therefore, I find the landlord is entitled to recover unpaid rent for December 2015, in the amount of **\$750.00**.

Section 37 of the Residential Tenancy Act states:

37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

I accept the undisputed evidence of the landlord that the tenants did not leave the rental unit clean and that repairs were required to the walls. Photographs and receipts support this. I find the tenants breached the Act and the landlord suffered a loss. Therefore, I find the landlord is entitled to recover for cleaning and repairs the amount of **\$583.15**.

I accept the undisputed evidence of the landlord that the tenants did not return the keys at the end of the tenancy. I find the tenants breached the Act, when they failed to return the keys, and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover the cost of changing the locks in the amount of **\$65.00**.

I accept the undisputed evidence of the landlord that the tenants broke two windows. This is supported by photographic evidence. I find the tenants breached the Act when they failed to repair the windows and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover the cost of the repair in the amount of **\$300.00**.

I accept the evidence of the landlord that the rental unit was unreasonable damaged by the tenants. As I have found the tenants breached the Act, I find the landlord is entitled to recover loss of rent for January 2015 in the amount of **\$750.00**.

I find that the landlord has established a total monetary claim of **\$2,548.15** comprised of the above described amounts and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$375.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$2,073.15**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

Conclusion

The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim. The landlord is granted a formal order for the balance due.

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: June 21, 2017

Residential Tenancy Branch