



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD FF

Introduction

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

- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

While the landlord attended the hearing by way of conference call, the tenant did not. I waited until 2:11 p.m. to enable the tenant to participate in this scheduled hearing for 2:00 p.m. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package ('Application') and evidence on May 11, 2017, by way of registered mail. The landlord provided Canada Post a tracking number in their evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application and evidence on May 16, 2017, five days after its registered mailing.

Issue(s) to be Decided

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover their filing fee for this application?

Background and Evidence

The landlord testified regarding the following facts. This month-to-month tenancy began in October 2012 and ended on April 30, 2017 when the tenant moved out. Monthly rent was set at \$850.00, payable on the first of each month. The landlord collected a security deposit of \$400.00, which the landlord still holds.

The tenant moved out on April 30, 2017, and left before the move-out inspection could be completed with the landlord. The landlord testified that a move-in inspection was done at the beginning of the tenancy.

The landlord indicated a total monetary loss of \$1,115.66 for this tenancy, but indicated in the hearing that she was not seeking the full monetary claim. The landlord is applying to retain the \$400.00 security deposit in satisfaction of the monetary claim, plus recover the \$100.00 filing fee for this application.

| Item | Amount |
|---------------------------------------|-----------------|
| Professional Cleaning | \$105.00 |
| Cleaning by landlord | 66.66 |
| Estimate for replacing damaged floors | 844.00 |
| Filing Fee | 100.00 |
| Total Monetary Order Requested | \$500.00 |

The landlord supported the above monetary claim with invoices, receipts, and pictures in their evidence package. The landlord testified that the floors were new at the beginning of the tenancy and were damaged by the tenant. The landlord also testified that the tenant failed to properly clean the home before vacating the home.

Analysis

Section 37(2)(a) of the *Act* stipulates 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. I find that the landlord provided sufficient evidence to show that the tenant did not take reasonable care and attention when vacating the suite. I also find that the landlord supported their claims with receipts and invoice, as well as photos. Accordingly, I find the landlord is entitled to compensation for these losses. I issue a monetary award of \$400.00 in partial satisfaction of the losses associated with this tenancy due to the tenant's failure to comply with section 37(2)(a) of the *Act*.

I find that the landlord's Application has merit and that the landlord is entitled to recover the fee for filing this Application.

In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenant's security in satisfaction of the monetary claim.

Conclusion

I issue a Monetary Order in the amount of \$100.00 in the landlord's favour which allows the landlord to retain the security deposit in satisfaction of the monetary claim for damages and losses, plus recover the \$100.00 filing fee for this application.

The tenant(s) must be served with this Order as soon as possible. Should the tenant(s) fail to comply with this Order, this 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: October 12, 2017

Residential Tenancy Branch