



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MND, MNSD, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damage to the unit - Section 67;
2. An Order for the return of the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. The Tenant was served with the application for dispute resolution and notice of hearing (the “Materials”) to the forwarding address provided by the Tenant on June 27, 2017. The Materials were sent by registered mail on July 9, 2017. Given this undisputed evidence I find that the Landlord has served the Tenant as required by Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenant is deemed to have received the Materials on July 14, 2017 whether the mail was collected or not. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to recovery of the filing fee?

Was the Landlord’s right to claim against the security deposit for damages to the unit extinguished at move-in?

Background and Evidence

The tenancy started on October 1, 2016 for a fixed term to end May 31, 2017. The tenancy ended on May 31, 2017. At the outset of the tenancy the Landlord collected \$400.00 as a

security deposit. Although the Parties mutually did a walk-through of the unit at move-in and move-out no condition inspection report was completed and copied to the Tenant for either walk-through.

The Tenant did not clean the unit at move out. The Tenant had a dog in the unit contrary to the terms of the tenancy. The carpets and sofas were left dirty and odorous. The Landlord had the unit cleaned and the Landlord claims the costs incurred of \$85.00. The invoice for this cost was provided as evidence. The Landlord had the carpets and sofas cleaned and claim the costs incurred of \$336.00. The invoice for this cost was provided as evidence. The Landlord provided photos of the unit and yard. No other invoices are provided to support any claimed amount over the two invoices. No monetary amounts are detailed in a monetary order worksheet or in the application itself.

Analysis

Section 37 of the Act provides 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. Based on the undisputed evidence of the Landlord I find that the Tenant failed to leave the unit as required by the Act. Given the invoices establishing the costs incurred as claimed I find that the Landlord is entitled to **\$421.00** (336.00 + 85.00). As the Landlord did not provide a monetary order worksheet detailing any of the costs claimed, did not provide any detailed calculation for claims amounting to the global amount claimed in the application itself, and did not provide any invoices indicating any other monetary claims, I dismiss the Landlord's claim for any amount over the above entitlement. As the Landlord's application has met with substantial success I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$521.00**.

Section 24 of the Act provides that the right of a landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the landlord does not make an offer for an inspection at move-in, does not complete a report and does not provide a copy of that report to the tenant. Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a landlord fails to

comply with this section, the landlord must pay the tenant double the amount of the security deposit. Policy Guideline #17 provides as follows:

Return of double the deposit will be ordered if the landlord has claimed against the deposit for damage to the rental unit and the landlord's right to make such a claim has been extinguished under the Act.

As the Landlord failed to complete a move-in condition report I find that the Landlord's right to claim against the security deposit was extinguished at move-in and that the Landlord was therefore not entitled to retain the security deposit for the purposes of its application to claim damages to the unit. As the Landlord did not return the security deposit to the Tenant within 15 days receipt of the forwarding address I find that the Landlord must now pay the Tenant double the security deposit plus zero interest of **\$800.00**. Deducting the Landlord's entitlement of **\$521.00** from its entitlement leaves **\$279.00** owed to the Tenant. I order the Landlord to return this amount to the Tenant forthwith.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$279.00**. If necessary, 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: November 09, 2017

Residential Tenancy Branch