



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR MNSD MNDC FF O

Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution ("application") under the *Residential Tenancy Act* ("Act") for a monetary order for unpaid rent or utilities, for damage to the unit, site or property, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, to retain all or part of the tenant's security deposit, and to recover the cost of the filing fee.

The landlord attended the teleconference hearing and gave affirmed testimony. During the hearing the landlord was given the opportunity to provide her evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing ("Notice of Hearing"), application and documentary evidence were considered. The landlord testified that the Notice of Hearing, application and documentary evidence were served on the tenant by registered mail and that the registered mail package has not been returned. Based on the above and without any evidence before me to prove to the contrary, I accept the landlord's affirmed testimony that the tenant was served by registered mail with the Notice of Hearing, application and documentary evidence.

Issues to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen with the tenant's security deposit under the *Act*?

Background and Evidence

The landlord testified that a written tenancy agreement exists between the parties but that it was not submitted in evidence. The landlord testified that a month to month tenancy began on October 1, 2015 and ended on May 2, 2017 when the tenant vacated the rental unit. The landlord testified that monthly rent was \$1,000.00 per month and was due the day before the first day of each month. The landlord stated that the tenant paid a security deposit of \$500.00 at the start of the tenancy which the landlord continues to hold.

The landlord's monetary claim for \$1,760.63 is comprised as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Late notice/loss of May 2017 rent	\$1,000.00
2. Loss of portion of April 2017 rent (April 22, 2017 to April 30, 2017 inclusive) calculated at \$1,000.00 monthly rent divided by 30 day month which is \$33.33 per day x 8 days.	\$266.64
3. 3 bent curtain rods	\$35.36
4. 19 hours of cleaning @ \$25.00 per hour	\$475.00
5. Dump fees (\$7.25, \$11.00, \$5.38)	\$23.63
Subtotal	\$1,800.63
<i>Less credit for shelf piece purchases by landlord from tenant</i>	<i>-(\$40.00)</i>
TOTAL	\$1,760.63

Regarding item 1, the landlord has claimed \$1,000.00 for loss of May 2017 due to the tenant's late notice which was never provided in writing by the tenant. The landlord testified that she was able to re-rent effective May 15th, 2017 and that the landlord received \$500.00 for the last half of May 2017 from the new tenants.

Regarding item 2, the landlord has claimed \$266.64 for the loss of April 2017 that the tenant failed to pay the landlord. The landlord testified that although there was a flood in the rental unit she had it repaired as soon as possible and that the rental unit was again returned to a livable condition as of April 22, 2017 onwards. The landlord testified that rent was not expected from April 1st, 2017 to April, 21st, 2017, however the tenant owed

the daily per diem amount of rent from April 22, 2017 to April 30, 2017. The landlord calculated \$266.64 by taking the monthly rent of \$1,000.00 and dividing that by 30 days for a rental per diem amount of \$33.33 and multiplying that amount by 8 days.

Regarding item 3, the landlord has claimed \$35.36 for the cost to repair three curtain rods and submitted photo evidence in support which shows three bend curtain rods at the end of the tenancy.

Regarding item 4, the landlord has claimed \$475.00 for cleaning costs. The landlords testified that the tenant left the rental unit in an unclean condition and breached the *Act* as a result. The landlord stated that it took 19 hours at \$25.00 per hour to clean the home to a reasonably clean condition due to the tenant failing to clean before he vacated the rental unit. The landlord submitted a letter from the cleaner in evidence in support of the cost and amount of cleaning required.

Regarding item 5, the landlord has claimed \$23.63 for the cost of three trips to the dump to dispose of garbage left behind by the tenant. The landlord submitted copies of the three dump receipts in evidence in the following amounts: \$7.25, \$11.00 and \$5.38. The landlord also referred to the photo evidence in support of this portion of her claim.

Analysis

Based on the undisputed documentary evidence and undisputed testimony of the landlord, and on the balance of probabilities, I find the following.

As the tenant was served with the Notice of Hearing, application and documentary evidence and did not attend the hearing, I consider this matter to be unopposed by the tenant.

Item 1 - The landlord has claimed \$1,000.00 for loss of May 2017 due to the tenant's late notice which was never provided in writing by the tenant. As the landlord testified that she was able to re-rent effective May 15th, 2017 and that the landlord received \$500.00 for the last half of May 2017 from the new tenants, I find the landlord complied with section 7 of the *Act*. Section 7 requires that an applicant do what is reasonable to minimize the damage or loss which I find the landlord did by re-renting the rental unit effective May 15, 2017 onwards. Given the above, I find the landlord is entitled to **\$500.00** for loss of May 1-14, 2017 rent inclusive due to the tenant breaching section 26 and 43 of the *Act*. Section 26 of the *Act* requires that rent be paid on the date that it is due and section 45(1) of the *Act* would made the earliest end of tenancy date May 31, 2017 at 1:00 p.m. had the tenant provided a notice to end tenancy in writing which I find

the tenant failed to do based on the testimony before me. As a result, I **caution** the tenant to provide all notices to end tenancy in writing to the landlord in future.

Item 2 - The landlord has claimed \$266.64 for the loss of April 2017 that the tenant failed to pay the landlord. I accept the landlord's undisputed testimony that although there was a flood in the rental unit she had it repaired as soon as possible and that the rental unit was again returned to a livable condition as of April 22, 2017 onwards.

I find the landlord did was correct by not charging rent between April 1st, 2017 to April, 21st, 2017, however I find the tenant owes the daily per diem amount of rent from April 22, 2017 to April 30, 2017 as calculated by the landlord. The landlord calculated \$266.64 by taking the monthly rent of \$1,000.00 and dividing that by 30 days for a rental per diem amount of \$33.33 and multiplying that amount by 8 days. Therefore, I find the landlord has met the burden of proof and I award the landlord **\$266.64** as claimed for item 2.

Item 3 - The landlord has claimed \$35.36 for the cost to repair three curtain rods and submitted photo evidence in support which shows three bend curtain rods at the end of the tenancy. Based on the undisputed evidence before me, I find the landlord has met the burden of proof and I grant the landlord **\$35.36** as claimed for item 3.

Item 4 - The landlord has claimed \$475.00 for cleaning costs. The landlord stated that it took 19 hours at \$25.00 per hour to clean the home to a reasonably clean condition due to the tenant failing to clean before he vacated the rental unit. I have considered the photo evidence and the letter from the cleaner and find that the tenant breached section 37 of the *Act* which requires the tenant to leave the rental unit in a reasonably clean condition at the end of the tenancy which I find the tenant failed to do. Therefore, I grant the landlord **\$475.00** as claimed for item 4 as claimed.

Item 5 - The landlord has claimed \$23.63 for the cost of three trips to the dump to dispose of garbage left behind by the tenant. After considering the three dump receipts in evidence in the following amounts: \$7.25, \$11.00 and \$5.38 and the photo evidence, I find the landlord has met the burden of proof. As a result, and consistent with my finding regarding item 4 above, I find the landlord has met the burden of proof and I grant the landlord **\$23.63** as claimed.

As the landlord's claim had merit, I grant the landlord **\$100.00** pursuant to section 72 of the *Act* in full recovery of the cost of the \$100.00 filing fee.

Based on the above, below is a summary of what I have awarded the landlord and note that I have taken into account the **\$40.00 credit** that the landlord testified was owed to the tenant based on a verbal agreement with the tenant:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Late notice/loss of May 2017 rent (May 1-14, 2017)	\$500.00
2. Loss of portion of April 2017 rent (April 22, 2017 to April 30, 2017 inclusive) calculated at \$1,000.00 monthly rent divided by 30 day month which is \$33.33 per day x 8 days.	\$266.64
3. 3 bent curtain rods	\$35.36
4. 19 hours of cleaning @ \$25.00 per hour	\$475.00
5. Dump fees (\$7.25, \$11.00, \$5.38)	\$23.63
6. Filing fee	\$100.00
Subtotal	\$1,400.63
<i>Less credit for shelf piece purchases by landlord from tenant</i>	<i>-(\$40.00)</i>
TOTAL	\$1,360.63

The landlord continues to hold a security deposit of \$500.00 which as accrued \$0.00 in interest. I authorize the landlord to retain the tenant's full \$500.00 security deposit pursuant to section 72 of the *Act* in partial satisfaction of the landlord's monetary claim. Based on the above, I grant the landlord a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlord in the amount of **\$860.63**.

Conclusion

The landlord's application is mostly successful.

The landlord has established a total monetary claim of \$1,400.63 which was reduced by \$40.00 due to a credit due to the tenant. The landlord has been authorized to retain the tenant's full \$500.00 security deposit pursuant to section 72 of the *Act* in partial satisfaction of the landlord's monetary claim. In addition, the landlord is granted a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlord in the amount of **\$860.63**. The landlord must serve the tenant with the

monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: December 18, 2017

Residential Tenancy Branch