



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MND MNDC MNSD FF

Introduction:

Only the landlord's agent (hereinafter called 'the landlord') attended and gave sworn testimony. The landlord said they served the Application for Dispute Resolution on the tenant by registered mail and it was signed by them acknowledging receipt (tracking numbers provided). I find the documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this hearing. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Sections 7, and 67 for damages;
- b) To retain the security deposit to offset the amount owing; and
- c) An order to recover the filing fee pursuant to Section 72.

Issue(s) to be Decided:

Has the landlord has proved on a balance of probabilities that the tenant damaged the property, that it was beyond reasonable wear and tear and the cost of repair? Is the landlord entitled to recover the filing fee?

Background and Evidence:

The tenant did not attend the hearing although served with the Application/Notice of Hearing. The landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The landlord stated that the tenancy commenced in July 2016, that monthly rent was \$2800 and a security deposit of \$1400 was paid. The landlords said that the tenant vacated a month before their fixed term lease ended and allowed an alleged family member to live in the property without the landlord's consent.

The landlord provided evidence that carpets needed to be professionally cleaned, a wall at the top of the stairs was damaged, keys were not returned, a closet door needed

repair and the pool had been neglected and required significant work. The landlord claims as follows:

1. \$147.00 for carpet cleaning, invoice provided
2. \$105.00 for repair and painting of wall
3. \$181.09 for change of locks for keys were not returned for some time and the landlord had to secure the premises
4. \$546.25 for remediating the pool. In the lease in evidence, the landlord agreed to have the pool regularly maintained with chemicals bi-weekly and the tenant agreed to clean the pool; instructions for using the vacuum were included. The landlord provided evidence that the maintenance company attended regularly but the tenant failed to keep the pool vacuumed so the pool became dirty with discoloured water which required much remediation.
5. \$76.65 for fixing the closet door. This was amended from \$100 in the original claim as the landlord had received the invoice from the professional.

The tenant provided no documents to dispute the claim. On the basis of the documentary and solemnly sworn evidence, a decision has been reached.

Analysis

Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

Director's orders: compensation for damage or loss

67 Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Section 67 of the Act does *not* give the director the authority to order a respondent to pay compensation to the applicant if damage or loss is not the result of the respondent's non-compliance with the Act, the regulations or a tenancy agreement.

The onus is on the landlord to prove on the balance of probabilities that there is damage caused by this tenant, that it is beyond reasonable wear and tear and the cost to cure the damage. I find the landlord's evidence credible that this tenant caused the damage,

and that the damage was beyond reasonable wear and tear as it is supported by move-in and move-out reports. I find the tenants violated section 32 of the Act and their lease agreement by not returning the property in a clean and undamaged condition. I find the landlord's evidence credible as to the cost to cure the damage as the amount of damage and cost to repair is supported by statements, photographs and invoices and the tenant has not disputed the claim. I find the landlord entitled to \$1055.99 as claimed.

Conclusion:

I find the landlord is entitled to a monetary order as calculated below and to retain part of the security deposit to offset the amount owing. I find the landlord is also entitled to recover filing fees paid for this application. The balance of the security deposit will result in a monetary order to the tenant. As the tenant vacated in May or June, 2017, the landlord requests the tenant to provide a valid forwarding address to them so they may refund the money owing.

Calculation of Monetary Award:

Deep clean carpets	147.00
Repair & paint wall at top of stairs	105.00
Change locks	181.09
Pool clean up and remediation	546.25
Fix closet door	76.65
Filing fee	100.00
Less security deposit	-1400.00
Balance is Monetary Order to Tenant	-244.01

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: January 09, 2018

Residential Tenancy Branch