



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding OMAHS SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act"):

- a Monetary Order for . damages pursuant to section 67; and
- authorization to retain the security deposit in partial satisfaction of their monetary award pursuant to section 38.

The tenant did not attend this teleconference hearing, which lasted approximately 10 minutes. The line remained open throughout the hearing. The corporate landlord was represented by its agent SW (the "landlord") who was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the landlord's application for dispute resolution dated September 14, 2017 was sent to the tenant at the forwarding address they provided by registered mail on September 21, 2017. The landlord provided a Canada Post tracking number as evidence of service. I find that the tenant was deemed served with the landlord's application for dispute resolution and evidence package in accordance with sections 89 and 90 of the Act on September 26, 2017, five days after mailing.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

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

Background and Evidence

The landlord provided undisputed evidence regarding the following facts. This tenancy began in 2013 and ended on August 31, 2017. The monthly rent at the end of the tenancy was \$510.00. A security deposit of \$671.00 was paid at the start of the tenancy and is still held by the landlord.

The parties participated in a move-in inspection at the start of the tenancy. The tenant did not attend a move-out inspection despite the building manager providing two opportunities to participate in a move-out inspection. The landlord completed the move-out inspection without the tenant, recorded the damage to the rental suite and provided a copy to the tenant.

The landlord testified that the tenant caused damage to the carpets of the rental unit necessitating their replacement. The landlord submitted photographs of several burn marks and damage done to the carpets of the rental unit. The landlord said the cost of replacing the carpets in the rental unit was \$1,469.00, the amount claimed in the application. The landlord submitted into written evidence a copy of the invoice from the flooring company showing the cost of new carpet, underlay and installation into the rental unit.

Analysis

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. The claimant also has a duty to take reasonable steps to mitigate their loss.

The landlord provided undisputed evidence at this hearing as the tenant did not attend despite being served in accordance with the *Act*. I accept the landlord's evidence that the rental unit required new carpets as a result of the damage caused by the tenant. I accept the documentary evidence submitted by the landlord as evidence of the damage and the cost incurred as a result of the damages. I accept the landlord's testimony that the total amount of the loss for repairing the damages to the rental unit is \$1,469.00.

Based on the foregoing I issue a monetary award in the landlord's favour in the amount of \$1,469.00, pursuant to section 67 of the Act.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's \$671.00 security deposit in partial satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$798.00 under the following terms, which allows the landlord to recover the damage and loss suffered:

Item	Amount
Replacement of Carpets	\$1,469.00
Less Security Deposit	-\$671.00
Total Monetary Order	\$798.00

The tenant must be served with this Order as soon as possible. Should the tenant 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: April 16, 2018

Residential Tenancy Branch