



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding E Y PROPERTIES LTD
and [tenant name suppressed to protect privacy]

DECISION

Code MNR, MND, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the “Act”), for a monetary order for unpaid rent, for damages to the unit and for an order to retain the security deposit in partial satisfaction of the claim.

The landlord’s agent attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord’s agent testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail on December 1, 2017, Canada post tracking numbers were provided as evidence of service. The packages were successfully delivered on December 4, 2017. I find that the tenants have been duly served in accordance with the Act.

The landlord’s agent appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to monetary compensation for damages?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on September 1, 2016. Rent in the amount of \$1,500.00 was payable on the first of each month. The tenant paid a security deposit of \$700.00 and a key deposit of \$60.00. The tenancy ended on October 23, 2017.

A move-in and move-out condition inspection report was completed.

The landlord claims as follows:

a.	Unpaid rent for October 2017	\$1,500.00
b.	Cleaning and damages	\$ 561.50
c.	Late fee, parking fee, laundry card replacement	\$ 95.00
d.	Filing fee	\$ 100.00
	Total claimed	\$2,256.50

The landlord's agent testified that the tenants failed to rent for October 2017. The landlord seeks to recover unpaid rent in the amount of \$1,500.00.

The landlord's agent testified that the tenants agreed to the cleaning and damages in the move-out condition inspection report. The landlord seeks to recover the cost for cleaning and damages in the amount of \$561.50.

The landlord's agent stated that they are entitled to a late fee for unpaid rent for October, the parking fee and the cost of the lost laundry card. The landlord seeks to recover the amount of \$95.00.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Rules about payment and non-payment of rent are defined in Part 2 of the Act.

Rules about payment and non-payment of rent

26 (1) *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

...

I accept the unopposed evidence of the landlord that the tenants failed to pay rent for October 2017. I find the tenants have breached section 26 of the Act when they failed to pay rent when due under the tenancy agreement and this has caused losses to the landlord. Therefore, I find the landlord is entitled to recover unpaid rent in the amount of **\$1,500.00**.

How to leave the rental unit at the end of the tenancy is defined in Part 2 of the Act.

Leaving the rental unit at the end of a tenancy

37 (2) *When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.*

The tenants acknowledged in the move-out condition inspection that they left items uncleaned and damaged. I find the tenants breached the Act, and this has caused losses to the landlord. Therefore, I find the landlord is entitled to recover the cost for cleaning and damages in the total amount of **\$561.50**.

The tenants failed to pay rent in accordance with their tenancy agreement. The tenancy agreement stated that the landlord is entitled to recover **\$25.00**. The agreement also requires the tenant to pay \$20.00 for parking. I find tenants breached the Act, when they failed to pay these amounts in accordance with their tenancy agreement. Therefore, I find the landlord is entitled to recover **\$45.00**.

The tenants acknowledged in the move-out condition inspection report that they lost the laundry card. Therefore, I find the landlord is entitled to recover the cost of the card in the amount of **\$50.00**.

I find that the landlord has established a total monetary claim of **\$2,256.50** comprised of the above described amounts and the \$100.00 fee paid for this application.

I order that the landlord retain the security and key deposits of **\$760.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 of the Act for the balance due of **\$1,496.50**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

Conclusion

The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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: July 04, 2018

Residential Tenancy Branch