



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC MNR MNSD FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on July 12, 2018. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or loss under the Act;
- authorization to retain all or a portion of the Tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and,
- to recover the cost of the filing fee.

The Landlord had an agent, A.G. attend the hearing on their behalf (referred to as the Landlord). The Tenant did not attend the hearing. The Landlord stated that she sent the Notice of Hearing and evidence by registered mail to the Tenant on December 4, 2017. The Landlord testified that she sent it to the rental address even though the Tenant had moved out already. The Landlord testified that she watched online to see if the package was delivered and noticed that the Tenant had "refused" delivery and as a result it was returned to the Landlord. The Landlord stated that the Tenant must have had a forwarding address in place for her mail, as she specifically refused delivery and it appears she had an opportunity to accept the package, but decided not to. The Landlord provided proof of mailing.

Having considered the testimony and evidence on this matter, I am satisfied the Landlord has sufficiently served the Tenant with the Notice of Hearing and evidence for the purposes of this Act. I find the Tenant is deemed to have been served with the package on December 9, 2017, which is the fifth day after its registered mailing, pursuant to section 88 and 90 of the Act.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Landlord entitled to a monetary order for damage or loss under the Act?
- Is the Landlord entitled to retain all or a portion of the Tenant's security deposit in partial satisfaction of the monetary order requested?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

During the hearing, the Landlord testified the following:

They currently hold the Tenant's security deposit of \$460.00. The Tenant moved out of the unit sometime in the middle of November 2017, without any warning or notification. The Landlord finally entered the unit on November 15, 2017 and noticed that the keys were left on the counter and the unit was empty.

The Landlord stated that the place was very dirty, and clearly hadn't been cleaned. The Landlord also stated that the carpets were not cleaned, and there was a hole in the carpet in the bedroom. The following expenses were incurred to remedy the rental unit:

- Cleaning of the rental unit – The Landlord hired a cleaner to come and it cost \$192.50, including the cost of supplies to clean the whole unit (kitchen, bathroom, windows, floors). An invoice was provided.
- Carpet Cleaning – The Landlord hired someone to clean the carpets as they were dirty. This cost \$130.00.
- Carpet Repair – The Landlord stated the carpets were in good shape before the tenant moved in, and the Tenant ripped a hole in the bedroom carpet, about a foot in size. The Landlord stated that they had the hole patched and this cost \$315.00, as per the invoice.
- Unpaid rent – The Landlord stated that the Tenant never paid October or November 2017 rent (\$1,002.00x2), and they were unable to re-rent the unit until December 1, 2017, because the Tenant left part way through the month and left the unit dirty and in disrepair.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*.

Based on all of the above, the undisputed evidence and testimony, and on a balance of probabilities, I find the evidence before me sufficiently demonstrates that the Tenant caused damage to the rental unit (carpets), failed to clean as required, and failed to pay rent for October and November 2017, as itemized above. I find the Landlord's expenses to remedy the rental unit are reasonable. I award all of the items listed above, in full.

Further, with respect to the carpet damage, I note that Residential Tenancy Policy Guideline #40 provides guidance with respect to how long items should be expected to last. For example, the useful life of carpets is listed as 10 years. Although it is unclear how old the carpets were, I note the damage is beyond what would be expected for reasonable wear and tear. As a result, I did not consider the useful life expectancy of carpets because of the extraordinary damage which was repaired in a reasonable and cost effective manner. I award the Landlord the full amount of this item (\$315.00) despite the carpets being part way through their useful life.

Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was substantially successful with her application, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

Also, pursuant to sections 72 of the *Act*, I authorize that the security deposit, currently held by the Landlord, be kept and used to offset the amount owed by the Tenant. In summary, I grant the monetary order based on the following:

Claim	Amount
Total of items listed above	\$2,641.50
Filing fee	\$100.00

Less: Security and pet Deposit currently held by Landlord	(\$460.00)
TOTAL:	\$2,281.50

Conclusion

The Landlord is granted a monetary order in the amount of **\$2,281.50**, as specified above. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be 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: July 12, 2018

Residential Tenancy Branch