



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, FF

Introduction

This hearing dealt with a landlord's application for a Monetary Order for unpaid utilities; damage to the rental unit; other damages or loss under the Act, regulations or tenancy agreement; and, authorization to retain the security deposit. The tenant did not appear at the hearing.

Since the tenant did not appear I explored service of hearing documents upon the tenant. The landlord testified that she sent the hearing package to the tenant via registered mail on November 24, 2017 and it was delivered on November 29, 2017. The landlord testified that the tenant provided a service address to the landlord in a text message a few days after the tenancy ended. The landlord orally provided the registered mail tracking number, which I have referenced on the cover page of this decision, and I verified that the landlord's statements with respect to sending registered mail to the tenant were accurate. Having been satisfied the tenant was duly served with notification of this proceeding and I continued to hear from the landlord without the tenant present.

The landlord also testified that she had previously filed a claim against the tenant but that case was dismissed with leave to reapply because the landlord was unable to produce the registered mail tracking number at the previous hearing. I confirmed that the landlord was granted leave to reapply against the tenant. I have referred to the previous file number on the cover page of this decision.

Issue(s) to be Decided

1. Has the landlord established an entitlement to recover the amounts claimed against the tenant for unpaid utilities, damage and other losses?
2. Is the landlord authorized to retain the tenant's security deposit?

Background and Evidence

The three month fixed term tenancy started on January 1, 2017 and was set to expire March 31, 2017. The tenant vacated the rental unit at approximately 5 p.m. on March 31, 2017.

The tenant paid a security deposit of \$650.00 and was required to pay rent of \$1,300.00. The rent did not include utilities. The landlord testified that the tenant was to pay 50% of the utility bills to the landlord. The landlord provided a copy of the tenancy agreement as evidence.

The landlord prepared a move-in and move-out inspection report with the tenant. The tenant signed the reports indicating she agreed with the landlord's assessment of the property but did not authorize the landlord to make any deductions from her security deposit. The landlord provided a copy of the condition inspection reports as evidence along with photographs of the property taken at the end of the tenancy.

Below, I have summarized the landlord's claims against the tenant.

1. Utilities -- \$188.48

The landlord seeks to recover utilities for hydro, gas, internet and city utilities for the last month of tenancy. The landlord explained that the bills were received after the tenant moved out. The landlord provided a copy of the utility bills for hydro, gas and the city utilities as evidence.

2. Internet upgrade -- \$30.00

The landlord also seeks to recover the cost of the internet upgrade requested by the tenant. The landlord stated that a very basic internet service was included in rent but the tenant requested a package with greater data and the tenant agreed to pay for the difference between the basic package and the upgraded package which was \$30.00 per month. The landlord did not produce a copy of the internet bills to demonstrate the charges for basic versus the upgraded internet.

3. Carpet cleaning -- \$90.00

The landlord seeks to recover the cost to clean the carpets after the tenancy ended. The landlord testified that the tenant had pets and the carpets were dirty at the end of the tenancy. The landlord provided a copy of a carpet cleaning invoice as evidence.

4. Cleaning -- \$90.00

The landlord seeks to recover \$90.00 for three hours of her time to clean the rental unit. The landlord submitted that the cupboards, fireplace, floors, bathroom and windows required cleaning at the end of the tenancy. The landlord testified that professional cleaners charge \$35.00 or more per hour.

5. New deadbolt -- \$84.86

The landlord seeks \$44.86 to purchase a new deadbolt and \$40.00 for labour to install a new deadbolt on the unit. The landlord provided a receipt dated April 15, 2017 for the purchase of a deadbolt.

The landlord stated that the tenant did not return the key and she did not feel she could trust the tenant with a copy of a key for the old lock. The landlord explained that she looked into getting the lock re-keyed but the former lock was old and the cost to re-key the old lock was approximately \$90.00 so she purchased a new deadbolt instead.

6. Floor repair – \$180.00

The landlord seeks to recover \$180.00 sand and touch up gouges and scratches in the floor. The landlord had obtained an estimate to do a temporary cosmetic repair the floors in the amount of \$180.00 plus tax but the work was done by her friend and she gave her friend the \$180.00 instead for this work. The landlord provided a copy of the estimate.

The landlord testified that she had given the tenant felt pads to put under furniture but it appears the floor was damaged by dropping or dragging things across the floor.

7. Internet re-connection -- \$100.00

The landlord seeks to recover \$100.00 she was billed by the internet provider to install a new modem after the tenancy ended. The landlord testified that the tenant had taken her modem and even though the tenant did eventually return it the landlord had already had the internet provider attend the property and install a replacement modem. The landlord provided a copy of a portion of her Telus bill as evidence to demonstrate she was charged \$100.00 for a service call on April 3, 2017.

8. Filing fees -- \$200.00

The landlord seeks to recover the filing fee paid for this application and the previous application she filed against the tenant.

9. Landlord's time to prepare for claim -- \$360.00

The landlord seeks compensation for 12 hours of her time to prepare her monetary claim against the tenant.

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 section 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.

Upon consideration of the unopposed evidence before me, I provide the following findings and reasons.

1. Utilities

The tenancy agreement indicates that utilities are not included in rent and I accept the landlord's position that the tenant is required to pay for utilities in addition to rent. The landlord testified that the tenant's obligation was to pay 50% of the utilities bills to the landlord. While that is not specified in the tenancy agreement, I accept that allocation in the absence of any evidence to the contrary.

Upon review of the April 5, 2017 hydro bill, I find the charges up to March 31, 2017 amount to \$54.79 plus GST or \$57.53 and 50% of that is \$28.76. The landlord claimed \$40.00 per month based on an average billing payment; however, the average billing payments are adjusted at the end of the year or when the account is closed to reflect actual consumption. Accordingly, I find the charges for consumption, levies and taxes for the relevant period is the most accurate and I award the landlord recovery of \$28.76 for hydro.

Upon review of the Fortis bill, I find the landlord's request for \$62.60 represents 50% of the bill for March 1 – 31, 2017 and I award the landlord that amount.

Upon review of the city utility bill that includes charges for water, sewer, garbage and recycling for the three month period of January through March 2017, I find the landlord's calculation that the tenant owes \$55.90 for these utilities for the month of March 2017 to be accurate and I award the landlord that amount.

I note that included in the landlord's request for \$188.48 in utilities, the landlord requested \$30.00 for internet. However, the landlord also included a request for \$30.00 for internet in a separate line item on her Monetary Order worksheet. It would appear that the landlord has double counted the internet claim and I will only consider one such claim in the section that follows.

In light of the above, I award the landlord a total of \$147.26 for utilities [calculated as \$28.76 + \$62.60 + \$55.90].

2. Internet upgrade

The landlord testified that the tenant was to be provided basic internet service as part of her rent. When I look at the tenancy agreement it is silent with respect to providing or including any level of internet as a service or facility. Rather, the tenancy agreement indicates that basic cablevision is included in rent. Despite the lack of documentation pertaining to providing the tenant with internet as part of the tenancy, I accept the landlord's unopposed submission that the tenant was provided internet services during the tenancy.

As for the landlord's assertion that the tenant was required to pay \$30.00 per month for an internet upgrade, I find the landlord did not produce sufficient evidence to support this assertion. The landlord did not produce any sort of a written agreement. Further, the landlord provided only one page of a bill from Telus in her evidence package and it does not provide a breakdown of the charges for internet services verses other services provided by Telus such as cablevision or telephone. Nor, did the landlord provide previous Telus bills to demonstrate the internet charge went up \$30.00 per month. All these things considered, I find there is insufficient evidence that the tenant owes the landlord \$30.00 for an internet upgrade under the Act or the tenancy agreement and I dismiss this claim.

3. Carpet cleaning

A tenant is required to leave a rental unit reasonably clean at the end of the tenancy pursuant to section 37 of the Act. The landlord provided a condition inspection report, carpet cleaning invoice, and photographs in support of her position that the carpets were not left reasonably clean and they required cleaning. The landlord also provided an invoice in support of the amount claimed. Therefore, I grant the landlord's request to recover \$90.00 from the tenant for carpet cleaning.

4. Cleaning

As stated above, a tenant is required to leave a rental unit reasonably clean at the end of the tenancy. The landlord provided a condition inspection report and photographs in support of her position that the rental unit was not left reasonably clean and required additional cleaning. I find the landlord's submission that she spent three hours doing so appears reasonable. However, I find her hourly rate is high since she is not a professional cleaner and I limit the hourly rate to \$20.00 per hour. Therefore, I award the landlord \$60.00 for cleaning.

5. New deadbolt

Section 37 requires that the tenant return all keys or means of access to the landlord at the end of the tenancy. The landlord submitted that the tenant failed to return the key provided to her and that appears consistent with the move-out inspection report. The landlord provided a receipt to demonstrate the cost of a new deadbolt in the amount of \$48.14 and requested a further \$40.00 for labour to install a new deadbolt.

Considering the landlord benefits from a new deadbolt in place of the old one that was difficult to have rekeyed, I find it reasonable to take into account depreciation of the old lock in making my award. I find it reasonable and appropriate to award the landlord one-half of her claim, or \$44.07.

6. Floor damage

Section 37 of the Act requires the tenant to leave the rental unit undamaged; however, section 37 also provides that reasonable wear and tear is not considered damage. The landlord provided a condition inspection report and photographs that depict scratches and gouges in the floor at the end of the tenancy. Based on the evidence before me, I accept the landlord's position that the gouges and scratches are beyond wear and tear.

The landlord seeks compensation of \$180.00 to apply a temporary cosmetic fix by a friend. The amount was supported by an estimate and the landlord testified that she paid this amount to her friend that did the work. I find the unopposed request is not unreasonable and I grant the landlord compensation as requested.

7. Internet re-connection

The landlord submitted that the tenant took the modem at the end of the tenancy which caused the landlord to incur a service call to install a new modem. The landlord produced a Telus bill that shows a service call on April 3, 2017 and I accept the unopposed evidence that the \$100.00 service call charge was incurred due to the tenant's actions. Therefore, I award the landlord \$100.00 as requested.

8. and 9. Filing fees and time to prepare for dispute

Section 72 of the Act provides me discretion to award an applicant recovery of the filing fee paid for the application before me. However, a filing fee paid for another Application for Dispute Resolution would be awarded by the Arbitrator presiding that proceeding. Since decisions are final and binding I am not at liberty to consider awarding the landlord recovery of a filing fee that was paid for a previous Application for Dispute Resolution that was before another Arbitrator. Further, the Act does not provide for recovery of other costs to prepare for or participate in a dispute resolution proceeding except for the filing fee.

In light of the above, I award the landlord recovery of the filing fee paid for this Application for Dispute Resolution since her claims had merit; however, I dismiss the landlord's requests to recover the filing fee paid for a previous application or the landlord's time to prepare her claims against the tenant.

Security deposit and Monetary Order

I authorize the landlord to retain the tenant's security deposit of \$650.00 in partial satisfaction of the amounts awarded to the landlord with this decision. I have not doubled the security deposit because the tenant provided her forwarding address to the landlord by way of a text message and that does not meet the tenant's obligation to give the landlord a forwarding address in writing in a manner that complies with the service provisions of section 88 of the Act.

I provide the landlord with a Monetary Order calculated as follows to serve and enforce upon the tenant:

| | |
|-----------------------------|-----------------|
| Unpaid utilities | \$147.26 |
| Carpet cleaning | 90.00 |
| Cleaning | 60.00 |
| Lock replacement | 44.07 |
| Floor damage | 180.00 |
| Internet re-connection | 100.00 |
| Filing fee | 100.00 |
| Less: security deposit | <u>(650.00)</u> |
| Monetary Order for landlord | \$ 71.33 |

Conclusion

The landlord has been authorized to retain the tenant's security deposit and has been provided a Monetary Order in the amount of \$71.33 to serve and enforce upon the tenant.

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 13, 2018

Residential Tenancy Branch