



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

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

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;

The hearing was conducted by conference call. All named parties attended this hearing and were given a full opportunity to provide affirmed testimony and present evidence. No issues were raised with respect to the service of the landlord's application including amended application.

The tenant has fully vacated the rental unit as of June 3, 2018; accordingly, the landlord withdrew his application for an order of possession.

Issues

Is the landlord entitled to monetary compensation for loss and damage to the rental unit?

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

Background and Evidence

The tenancy began on May 1, 2017 with a monthly rent of \$1200.00 payable on the 1st day of each month. There was no security deposit collected at the start of the tenancy.

The landlord is claiming unpaid rent in the amount of \$1200.00 for the month of May 2018. The landlord testified that rent was not paid for this month. The landlord testified they made a verbal agreement with the tenant to waive this month's rent if the tenant

would agree to vacate the rental unit by May 31, 2018. The tenant agreed to this arrangement but failed to move out by the agreed upon date.

The landlord testified the tenant only returned one of two keys for the rental unit and is claiming the amount of \$125.44 for replacement of the lock. A receipt was submitted.

The landlord is claiming \$78.13 for a truck rental. The landlord testified he paid for the truck rental as the tenant did not have one arranged on moving day. A receipt was submitted.

The landlord is claiming \$63.98 for carpet cleaning costs. The landlord testified the carpet was covered in cat urine and stains. A receipt was submitted.

The landlord is claiming \$2642.64 for the estimated cost of replacing the carpet. The landlord testified they were not able to get the smell of cat urine out of the carpets by cleaning and the carpets need to be replaced. The landlord testified that 80% of the two bedroom suite has carpet. The landlord testified that most of the damage was in one bedroom where the tenant's daughter had her cat. The landlord testified that the cat had urinated on the carpet. The landlord submitted a quote for the replacement work. The landlord testified the house was built new in 2012 and the suite was never rented before and used mainly for storage. Pictures of the carpets were also submitted.

The landlord is claiming costs to move the tenant's belongings. The landlord testified the tenant made no efforts to move so the landlord ended up moving the tenant's belongings themselves into the tenant's storage locker. The tenant provided them with the code to the locker. The last of the tenant's belongings were moved out by the landlord on June 3, 2018 and the locks were changed.

The tenant testified that she was told she didn't have to pay May 2018 rent. The tenant testified that she did not know the agreement was hinging on her moving by May 31, 2018.

The tenant acknowledged that she lost one of the two keys provided to her at the start of the tenancy.

The tenant agreed to pay the charge for the moving truck as it was paid for by the landlord to move her belongings.

The tenant does not agree to cleaning charge since the landlord is also claiming costs to replace the carpets. The tenant testified there were not a lot of stains on the carpets. The tenant testified that the landlord also has two cats and the cat litter used to be downstairs before the tenant moved in. The tenant testified that the pet smell could have been present before she moved in.

The tenant does not agree to the charge for replacing the carpets. The tenant testified that she does not see any stains in the picture evidence submitted by the landlord.

The tenant does not agree to the moving charges. The tenant testified that her boyfriend also helped with the move.

Analysis

Section 7 of the Act provides for an award for compensation for damage or loss as a result of a landlord or tenant not complying with this Act, the regulations or their tenancy agreement. Under this section, the party claiming the damage or loss must do whatever is reasonable to minimize the damage or loss.

Section 26 of the Act requires that 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.

Section 37 of the Act requires that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

There was no dispute that the tenant did not pay rent for May 2018. I accept the landlord's testimony that they agreed to waive the rent in exchange for the tenant vacating by May 31, 2018. The tenant did not vacate by this agreed upon date. The tenant has provided insufficient evidence that there was an agreement to waive the rent regardless of her not moving by May 31, 2018. The landlord is awarded **\$1200.00** for unpaid May 2018 rent.

The landlord is awarded **\$125.44** for replacement of the lock. The tenant acknowledged a key was lost and I accept the landlord's claim for this loss.

The landlord is awarded **\$78.13** for the cost of the moving truck rental as agreed to by the tenant.

The landlord's claim for carpet cleaning costs is dismissed. The landlord took it upon themselves to move the tenant's belongings and then proceeded to change the locks of the rental unit. By doing so the landlord did not provide the tenant with the opportunity to clean the carpets.

The landlord did not provide any move-in or move-out condition inspection report which would have documented the status of the carpets at the start and end of the tenancy. However I do accept the landlord's testimony and find the condition of the carpet in the one bedroom was significantly worse at the end of the tenancy due to damage from cat urine caused by the tenant's cat.

The carpet was also approximately 6 years old as the house was built in 2012. Residential Tenancy Policy Guideline 40, Useful Life of Building Elements, provides that carpets have a useful life of 10 years. In the absence of any supporting evidence of the condition of the carpets at the start of the tenancy, I find the carpets only had 4 years of useful life remaining. I also find that as per the landlord's own testimony, majority of the damage was limited to one bedroom. I find the tenant cannot be held responsible for replacing the carpets in the entire rental unit.

The landlord only submitted a quotation based upon the carpets in the entire rental unit being placed. As the loss for replacing the carpets only in the one bedroom is difficult to quantify, and taking into account the remaining useful life of the carpet, I award the landlord the nominal amount of **\$250.00**.

The landlords claim for moving costs is dismissed. The landlord took it upon themselves to help move the tenant's belongings. The tenant is not responsible for this alleged loss.

As the landlord was for the most part successful in this application, I find that the landlord is entitled to recover the **\$100.00** filing fee paid for this application.

I find that the landlord is entitled to a Monetary Order in the total amount of **\$1753.57**.

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of **\$1753.57**. 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: July 16, 2018

Residential Tenancy Branch