



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bentra Ventures
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNDC, MND, MNSD, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for compensation - Section 67;
3. A Monetary Order for damage to the unit - Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

The Tenants did not attend the hearing. I accept the Landlord’s witnessed evidence that each Tenant was served in person on November 15, 2018 with the application for dispute resolution, notice of hearing, and all the evidence that was provided to the Residential Tenancy Branch (the “Materials”) in accordance with Section 89 of the Act. The Landlords were given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy, under written agreement, started on June 30, 2018. Rent of \$1,550.00 was payable on or before the first day of each month. At the outset of the tenancy the

Landlord collected \$750.00 as a security deposit and \$750.00 as a pet deposit. The Parties mutually conducted a move-in inspection with completed report copied to the Tenants.

The Tenants failed to pay rent for August 2018 and on August 8, 2018 the Landlord served the Tenants with a 10 day notice to end tenancy for unpaid August 2018 rent (the "Notice"). The effective move out date set out on the Notice was August 18, 2018. The Tenants did not subsequently pay for the August 2018 rent. The Landlord claims \$1,550.00.

The Landlord sent several texts and left voice messages offering a move-out inspection for August 18, 2018 and the Tenants failed to respond. On August 15, 2018 the Landlord left a final notice of inspection on the door of the unit offering another inspection for August 18, 2018. The Tenants did not contact the Landlord and did not attend the final proposed inspection. The Tenants had moved out of the unit by August 18, 2018 however the Landlord was not made aware of the exact date. The Landlord conducted a move-out inspection and the report was provided to the Tenants with the evidence package.

The Landlord states that the Tenants failed to clean any part of the unit and claims \$250.00 for the costs of cleaning. The Landlord provides receipts for 4 hours cleaning on August 23, 2018 and 6 hours on August 25, 2018 at a rate of \$25.00 per hour.

The Landlord states that the Tenants left the unit with damage and claims as follows:

- \$937.41 as the costs for labour to repair walls, flooring and doors as well as the costs of paint materials and one set of replacement blinds. The blinds were located in one room, were damaged and were new with the building that was approximately 1.5 years old;
- \$175.70 as the cost for replacing a bathroom door left splintered with a large hole;

- \$68.79 for the cost of 20.82 square feet of flooring to replace the scratched vinyl flooring in the approximate 120 square foot living room; and
- \$68.70 for the cost of 20.82 square feet of required additional flooring for the living room.

The Landlord provides photos of the damages in the unit and invoices or receipts for the above costs claimed. The Landlord withdraws its claim of \$31.12 for the cost of painting a hole in the wall and \$3.18 as the cost of a paint sponge. The Landlord claims \$73.50 as the costs to serve the Tenants with the Materials for this hearing.

Analysis

Section 36(1) of the Act provides that the right of a tenant to the return of a security deposit or a pet damage deposit, or both, is extinguished if the landlord has offered at least two opportunities to conduct a move out inspection and the tenant has not participated on either occasion. Based on the undisputed evidence that the Tenants were given several offers for a move-out inspection, including a final offer, and that the Tenants did not participate I find that the Tenants' right to return of the security and pet deposit has been extinguished.

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement whether or not the landlord complies with this Act, the regulations or the tenancy agreement. Based on the Landlord's undisputed evidence of unpaid rent for August 2018, I find that the Landlord is entitled to **\$1,550.00**.

Section 37 of the Act provides 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. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. Based on the undisputed evidence, I find that the Tenants failed to leave the unit reasonably clean and without damages. Given the receipts for

the costs claimed to clean and repair the damages, I find that the Landlord has substantiated an entitlement to a total of **\$1,500.60**
(\$250.00+937.41+175.70+68.79+68.70)

As nothing in the Act provides for the recovery of costs to participate in a hearing, other than the filing fee, and as service is required for participating in the hearing, I dismiss the claim for service costs of the Landlord's Materials. As the Landlord has been successful with its claims I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$3,150.69**.

Although the Tenants' right to return of the security and pet deposit was extinguished, this sum remains available to be set off against the Landlord's entitlement. Deducting the combined security and pet deposit of **\$1,550.00** plus zero interest from **\$3,150.69** leaves **\$1,600.69** owed by the Tenants to the Landlord.

Conclusion

I Order the Landlord to retain the combined security and pet deposit of \$1,550.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining amount of **\$1,600.69**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: March 11, 2019

Residential Tenancy Branch