



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR MNDC MNSD FF

Introduction

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

- a monetary order for unpaid rent, damage and/or loss pursuant to section 67;
- 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;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenants did not attend this hearing, although I waited until 2:00 p.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 1:30 p.m. Both named landlords attended the hearing. E.H. represented the "landlord" and was given a full opportunity to provide affirmed testimony and present evidence.

The landlord testified that on December 28, 2018, copies of the Application for Dispute Resolution and Notice of Hearing were sent to both the tenants by registered mail. The landlord provided registered mail receipts and tracking numbers in support of service.

Based on the above evidence, I am satisfied that the tenants were both deemed served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenants.

Issues

Is the landlord entitled to a monetary award for unpaid rent, damage and/or loss?

Is the landlord entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested?

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

Background and Evidence

The tenancy began on December 1, 2017 with a monthly rent of \$1350.00 payable on the 1st day of each month. The lease was for a one year fixed term expiring November 30, 2018 and continuing on a month to month basis thereafter. The tenants paid a security deposit of \$675.00 at the start of the tenancy which the landlord continues to hold. A move-in condition inspection was conducted on November 28, 2017. A move-out condition inspection was conducted in the absence of the tenants on December 15, 2018 after the landlord discovered the tenants had abandoned the rental unit.

The landlord is claiming unpaid rent in the amount of \$1350.00 for the month of December 2018. The landlord testified that the tenants provided a notice to end tenancy on November 15, 2018 with an effective date of December 15, 2018. The landlord testified the tenants did not pay any rent for December 2018.

The landlord submitted a "monetary order worksheet" which provides a detailed breakdown of the landlord's claim for damages totaling \$1429.57. The landlord testified that the tenant left the rental unit in a state of uncleanness and disrepair. The landlord submitted a move-in and move-out condition inspection report plus various pictures of the rental unit at the end of the tenancy in support of the damages caused by the tenants. The landlord testified that the tenants left the bathroom vanity badly damaged with the doors broken off. The landlord found a used vanity as a replacement and is also claiming the cost of the installation.

The landlord testified the tenants did not return the keys so they are claiming the costs for a new front door lock. The landlord is also claiming the costs for a new lock and key for the bedroom. The landlord testified the tenants broke a key off in this lock so it had to be replaced.

The landlord is claiming costs incurred to clean the rental unit. The tenancy agreement stipulates a charge of \$25.00 per hour for any post move-out cleaning required. The landlord is claiming it took 8 hours to clean for two persons. The landlord testified they did the cleaning themselves.

The landlord is claiming costs incurred to re-paint both bedrooms, kitchen and bathroom. The landlord testified they did the painting work themselves which took a total of 6 hours. The landlord testified that various walls were left marked and scratched. The landlord testified the rental unit was freshly painted before the tenants moved in.

The landlord is claiming costs to store the tenants belongings left behind in the rental unit. The landlord testified that they paid a neighbor \$200.00 to store the items in his trailer. The landlord is also claiming the time it took to move and store the tenants belongings for a total of 4 hours at a rate of \$25.00/hour.

The landlord submitted receipts in support of each of the expenses claimed with the exception of the landlords own labour charges.

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 45(1) of the Act sets out that:

A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date after the landlord receives the notice, and

(b) is before the day in the month...that rent is payable under the tenancy agreement.

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.

The tenants provided a notice to the landlord on November 15, 2018 to end the tenancy effective December 15, 2018. The earliest the tenant could have ended the tenancy pursuant to section 45 of the Act was December 31, 2018. The tenant did not provide sufficient notice to end the tenancy therefore the landlord suffered a loss. I accept the

landlord's claim for loss of rent in the amount of \$1350.00 for the month of December 2018.

I also find that the tenants did not leave the rental unit reasonably clean and undamaged and this is supported by the landlord's evidence submissions and undisputed testimony. The pictures submitted by the landlord support there was damage to the bathroom vanity, various marks on the walls, uncleanliness throughout the unit and various items left behind in the unit. I find that the landlord has established the existence of the damage or loss as claimed and that it occurred due to the actions or neglect of the tenants. The landlord has also submitted evidence in support of the actual amounts required to compensate for the loss or repair the damage.

I accept the landlord's uncontested testimony and supporting evidence and find the landlord has suffered a loss due to damage to the unit as claimed in the amount of \$1429.57.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$2879.57 (\$1350.00 + \$1429.57 + \$100.00).

The landlord continues to hold a security deposit and pet deposit in the amount of \$675.00. I allow the landlord to retain the security deposit and pet deposit in partial satisfaction of the monetary award pursuant to section 38 of the Act.

Therefore, I find that the landlord is entitled to a Monetary Order in the amount of \$2204.57.

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$2204.57. Should the tenants 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: April 15, 2019

Residential Tenancy Branch