



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KLAUS BUDDE DESIGN and
[tenant name suppressed to protect privacy]

DECISION

Code MNR, MND, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the “Act”), for a monetary order for unpaid rent and utilities, for cleaning cost to the unit and for an order to retain the security deposit in partial satisfaction of the claim.

The landlord’s agent attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord’s agent testified the Application for Dispute Resolution and Notice of Hearing were served in person, on the tenant, at their place of work on September 27, 2019. The agent stated that service was witnessed by a third party.

I find that the tenant has been duly served in accordance with the Act.

The landlord’s agent appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent and utilities?

Is the landlord entitled to monetary compensation for cleaning?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on November 1, 2017. Rent in the amount of \$740.00 was payable on the first of each month. The tenant paid a security deposit of \$365.00. The tenancy ended on August 31, 2019.

A move-in and move-out condition inspection report was completed.

The landlord claims as follows:

| | | |
|----|-----------------------------|-----------------|
| a. | Unpaid rent for August 2019 | \$340.00 |
| b. | Unpaid utilities | \$130.44 |
| c. | Cleaning rental unit | \$155.00 |
| d. | Filing fee | \$100.00 |
| | Total claimed | \$785.44 |

The landlord's agent testified that the tenant made a partial payment of \$400.00, leaving a balance of unpaid rent for August 2019, in the amount of \$340.00.

The landlord's agent testified that the tenant did not pay all the utilities at the end of the tenancy; and those unpaid utilities automatically get transferred to the landlord's property tax. The landlord seeks to recover unpaid utilities in the amount of \$130.44.

The landlord's agent testified that the tenant did not properly clean the rental unit. The bathroom was left dirty, the appliances were not cleaned, and the cabinets were sticky from grease. The landlord seeks to recover cleaning costs in the amount of \$155.00.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Rules about payment and non-payment of rent are defined in Part 2 of the Act.

Rules about payment and non-payment of rent

26 (1) *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.*

...

I accept the undisputed evidence of the landlord's agent that the tenant did not pay all rent owed for August 2019. I find the tenant has breached section 26 of the Act when they failed to pay rent when due under the tenancy agreement and this has caused losses to the landlord. Therefore, I find the landlord is entitled to recover unpaid rent for August 2019, in the amount of **\$340.00**.

I accept the undisputed evidence of the landlord's agent that the tenant did not pay all utilities owed at the end of the tenancy and this amount was transferred to the landlord's property tax. I find the tenant has breached the Act when they failed to their utilities and this has caused losses to the landlord. Therefore, I find the landlord is entitled to recover unpaid utilities in the amount of **\$130.44**.

How to leave the rental unit at the end of the tenancy is defined in Part 2 of the Act.

Leaving the rental unit at the end of a tenancy

37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

I accept the undisputed evidence of the landlord's agent that the tenant did not leave the rental unit clean at the end of the tenancy. This is supported by the photographs. I find the tenant has breached section 37 of the Act, when they failed to leave the rental unit reasonably clean and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover cleaning costs in the amount of **\$155.00**.

I find that the landlord has established a total monetary claim of **\$785.00** comprised of the above described amounts and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$365.00** security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 of the Act for the balance due of **\$360.44**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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: January 27, 2020

Residential Tenancy Branch