



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNSD FF

Introduction

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

- a monetary order for damage to the rental unit 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. All named parties attended the 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 application and respective evidence submissions on file.

Issues

Is the landlord entitled to a monetary award for damage to the rental unit?

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

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

Background and Evidence

The tenancy for this basement suite began on May 1, 2018 with a monthly rent of \$980.00 payable on the 1st day of each month. The tenants paid a security deposit of \$490.00 at the start of the tenancy which the landlord continues to hold.

The landlord submitted a "monetary order worksheet" which provides a detailed breakdown of the landlord's claims totaling \$730.00. The landlord testified that the tenants left the rental unit in a state of uncleanliness 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 as evidence. The landlord testified that the tenant J.N. was present for the walk through and participated in it; however, he refused to sign the report. The landlord submitted receipts in support of each of the expenses claimed including cleaning, paint and paint supplies, replacing a towel bar and closet knobs. The landlord testified the charge for paint related expenses in only an estimate based upon the paint and supplies purchased as she has not yet had the opportunity to do the painting work as new tenants moved in immediately after. The landlord is also seeking \$148.84 in outstanding utilities.

J.N. testified on behalf of the tenants. J.N. testified that the landlord arranged the move-out without his agreement. J.N. testified that the landlord had only come to discuss the outstanding utility bill. J.N. testified that it was the landlord that refused to do the walk thru as she did not have time before new tenants were coming. J.N. testified the landlord did the walk-thru without him. J.N. disputes the landlords claims and argues the condition of the unit was dirty at the beginning of the tenancy and the towel bar and closet knobs were also missing at the beginning. The tenants also submitted various pictures of the unit taken at the end of the tenancy. The tenants agreed to the outstanding utilities amount claimed by the landlord and agreed to this deduction from the security deposit.

In reply, the landlord submits that the move-in inspection did not note any of the concerns raised by the tenant.

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 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 parties testimony conflicted with respect to the move-out inspection. I find the tenants testimony was inconsistent. The tenant first stated the inspection was scheduled without his agreement and that the landlord had only come to discuss the utility bill. I find on a balance of probabilities that the landlord came to not only discuss the bill but also do a walk thru on the move-out date. I accept the landlord's testimony

that a walk thru was completed together with the tenant J.N. I find the tenant refused to sign the report because he did not agree with it. Further, I accept the move-in report as being a credible record of the condition of the unit at the beginning of the tenancy. I find the pictures and the move-out report support the landlord's claim that the unit was in much worse condition at the end of the tenancy as compared to the beginning. The pictures submitted by the landlord support that the floors and walls were left very dirty. There is no mention of a broken or missing towel bar or closet knobs in the move-in report. I find the tenants were responsible for these items. The pictures submitted by the tenants are not as reliable as the landlord pictures as they are taken from more of a distance.

I find that the tenant did not leave the rental unit reasonably clean and undamaged. 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 tenant. The landlord has also submitted evidence in support of the actual amounts required to compensate for the loss or repair the damage.

I find the landlord has suffered a loss as claimed in the amount of \$730.00 which includes the outstanding utilities charge agreed to by the tenants.

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 \$830.00.

The landlord continues to hold a security deposit in the amount of \$490.00. I allow the landlord to retain the security 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 \$340.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$340.00. 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: May 12, 2020

Residential Tenancy Branch