



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. The tenant did not attend this hearing, although I waited until 2:00 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlords attended the hearing and were given a full opportunity to provide testimony and present evidence. The landlord K.M. (the "landlord") represented the landlords in this hearing.

The landlord testified that on January 31, 2020, a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the tenant by registered mail. The landlord testified that subsequently on May 8, 2020 the landlord's evidence package was sent to the tenant also by registered mail. The landlord testified that both packages were sent to the forwarding address provided by the tenant. The landlord provided registered mail tracking numbers in support of service during the hearing (RN481349024CA and RN481346487CA).

Based on the above evidence, I am satisfied that the tenant was 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 tenant.

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 began with the previous owner of the property on December 1, 2016 with a monthly rent of \$1200.00 payable on the 1st day of each month. The tenant paid a security deposit of \$575.00 at the start of the tenancy which the landlord continues to hold. The landlord took ownership of the property on November 26, 2019. The tenancy ended one month later on December 31, 2019.

The landlord submitted a "monetary order worksheet" which provides a detailed breakdown of the landlord's claims totaling \$1686.00. The landlord testified that the tenant left the rental unit in a state of uncleanliness, disrepair and inundated with garbage. The landlord submitted a 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 did not participate in the move-out inspection. The landlord testified that they did not receive a move-in inspection report from the previous owner but that the rental unit was newly built for the tenant. The landlord submitted receipts in support of each of the expenses claimed including garbage removal, cleaning and an estimate for paint and drywall repair work. The landlord testified the tenant left numerous holes throughout the unit which had been filled in with caulking and also had spray painted circles on a number of ceilings throughout the unit.

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.

I find that the tenant did not leave the rental unit reasonably clean and undamaged and this is supported by the landlord's evidence submissions including pictures, move-out inspection report, receipts and undisputed testimony. 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 accept the landlord's uncontested testimony and supporting evidence and find the landlord has suffered a loss as claimed in the amount of \$1686.00.

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 \$1786.00.

The landlord continues to hold a security deposit and pet deposit in the amount of \$575.00. 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 \$1211.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$1211.00. 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: May 25, 2020

Residential Tenancy Branch