



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for a monetary order for unpaid rent and damages to the rental unit, for an order to retain the security deposit and pet damage deposit in partial satisfaction of the claim and to recover the cost of the filing fee.

On November 3, 2020 the landlords request to be allowed to serve the tenant by email was granted. The substituted service order should be read in conjunction with this decision.

On February 16, 2021 this hearing commenced and was adjourned due to an error in the instructions the landlords were given in the substituted order. The interim decision should be read in conjunction with this decision.

On May 14, 2021, only the landlord appeared. The landlord testified that they served the tenant with a copy of the interim decision and Notice of Hearing scheduled for today's date by email in compliance with the substituted service order. Filed in evidence is a copy of the email sent to the tenant showing the documents were attached. I find the tenant has been duly served.

Further, I have also reviewed the Residential Tenancy Branch digital file, which shows on May 11, 2020 the tenant was also sent a reminder notice of today's hearing.

Issues to be Decided

Are the landlords entitled to a monetary order for unpaid rent?

Are the landlords entitled to monetary compensation for damages?

Are the landlords entitled to retain the security deposit and pet damage deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on April 16, 2017. Rent in the amount of \$1,060.00 was payable on the first of each month. The tenant paid a security deposit of \$500.00 and a pet damage deposit of \$500.00. The tenancy ended on October 11, 2020.

The landlords claim as follows:

a.	Unpaid rent	\$3,740.00
b.	Damages	\$ 800.00
c.	Filing fee	\$ 100.00
	Total claimed	\$4,640.00

The landlord testified that the tenant did not pay the following rent.

June 2020 the tenant pay the amount of \$500.00 leaving a balance due of \$560.00. The tenant did not pay any rent for July and August 2020 (\$2,120.00) and did not pay the rent owed for October 2020(\$1,060.00) and was served with a notice to end tenancy for unpaid rent. The landlord seeks to recover unpaid rent in the total amount of \$3,740.00.

The landlord testified that the tenant did not return the key to the back door and the key to the front door was left on the counter; however, it would not work in the lock. The landlord stated that they had to pay \$90.00 for the locks and \$100.00 for the labour. The landlord seeks to recover the cost of \$190.00.

The landlord testified that the tenant did not clean the rental unit and it was left dirty and there was garbage left behind. The landlord stated that they had to have the rental unit cleaned and the garbage removed and disposed. The landlord seeks to recover the cost of cleaning in the amount of \$200.00.

The landlord testified that the grout in the bathroom was so dirty and they had to replace it. The landlord stated that the carpet in the master bedroom was so dirty that they had to pay to have the carpet replaced. The landlord stated that the cost to replacement cost was higher than they claimed in their application.

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 landlords have 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.

In this case, the tenant has been served by email, with copies of the substitutes service order, Application for Dispute Resolution, interim decision, Notice of Hearing scheduled for May 14, 2021 and a reminder notice of the hearing from the Residential Tenancy Branch. I find it reasonable to conclude that the landlord's application is unopposed.

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 unopposed evidence of the landlord that the tenant failed to pay rent as shown above. I find the tenant breached the Act, when they failed to pay all rent owed for June, July, August, and September 2020. Therefore, I find the landlords are entitled to recover unpaid rent in the total amount of **\$3,740.00**.

I

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 unopposed evidence of the landlord that the tenant did not return the key to the backdoor and left a key on the counter to the front door that did not work. I accept the unopposed evidence for the landlord that they had to clean the rental unit and had to have the master bedroom carpet replaced. I find the tenant breached the Act, when they failed to leave the rental unit reasonably clean and undamaged.

While I accept the value of the loss was greater than the amount listed in the landlord's application for dispute resolution; however, the landlord did not formally amend their application to increase the amount. I find the landlords are limited to the amount claimed in their application. Therefore, I grant the landlords for cleaning and repairs the amount of **\$800.00**.

I find that the landlords have established a total monetary claim of **\$4,640.00** comprised of the above described amounts and the \$100.00 fee paid for this application.

I order that the landlords retain the security deposit of **\$500.00** and pet damage deposit of **\$500.00** in partial satisfaction of the claim and I grant the landlords an order under section 67 of the Act for the balance due of **\$3,640.00**.

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 landlords are granted a monetary order and may keep the security deposit and pet damage deposit in partial satisfaction of the claim and the landlords are 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: May 17, 2021

Residential Tenancy Branch