



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 was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on January 25, 2022. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit, and for unpaid rent; and,
- 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.

The Landlord attended the hearing. However, the Tenant did not. The Landlord testified that he delivered the Notice of Hearing and evidence package to the Tenant on July 26, 2021. Pursuant to section 89 and 90 of the Act, I find the Tenant received the package the same day it was delivered to him at his front door. I am satisfied the Landlord has sufficiently served the Tenant with the Notice of Hearing and evidence.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Landlord entitled to a monetary order for damage to the unit, for damage or loss under the Act, and for unpaid rent?

- Is the Landlord authorized to retain all or a portion of the Tenant's security and pet deposit in partial satisfaction of the monetary order requested pursuant to section 38?

Background and Evidence

The Landlord stated that the tenancy started on July 1, 2020, and was for a fixed term of one year. Monthly rent was set at \$1,350.00, and was due on the first of the month. The Landlord holds a security deposit in the amount of \$675.00. The Landlord stated that the Tenant vacated the unit on July 1, 2021, and a move out inspection was completed on July 2, 2021.

As per the Monetary Order Worksheet, there were 6 items in total, as follows:

1. \$1,350.00 – July 2021 rent

The Landlord explained that the Tenant sent him a text message on June 22, 2021, stating he would be moving out at the end of June. The Landlord responded by saying that this was insufficient Notice but the Tenant moved out regardless. The Landlord stated that the Tenant failed to pay any rent for July, and as a result, he suffered a loss of rent for that month. The Landlord stated that the Tenant left behind damaged walls and paint, dirty carpets, and he also left his trailer parked in the yard for over a month, until August 8, 2021. The Landlord provided photos of the trailer, the damage, and the issues which made him unable to re-post the suite for rent to mitigate his loss for July.

2. \$250.00 – Cleaning/Carpet Cleaning

The Landlord provided photos of the rental unit to show the stains on the carpets, the walls, the ceilings, windows, cabinets, appliances, and trim. The Landlord provided a copy of a receipt showing he hired a company to clean the carpets and the entire rental unit, since the Tenant did not do any cleaning before he left.

3. \$1,100.00 – Damaged walls and repainting

The Landlord provided photos showing the wall damage which includes many large holes in the drywall in the various rooms. More specifically, the Landlord pointed to the photos showing that the Tenant put up adhesive hooks in the kitchen, which left wall damage and removed the paint when they were taken down. The Landlord also pointed to the photos of the LED light strips the Tenant hung up with adhesive in one of the

bedrooms. These strips also left drywall and paint damage when they were removed. The Landlord also pointed to the stained ceilings, heavily scratched and damaged walls in the living room. The Landlord also pointed out that the Tenant removed the door stopper for the front door, and as a result, the Tenant punctured the drywall with the door knob for the front door. The Landlord pointed to the inspection report to show that the rental unit was in near perfect condition at the start of the tenancy, and he also noted that the rental unit was painted immediately before this tenancy started, one year prior. The Landlord stated he obtained several quotes for repainting and wall repair, and he took the lowest of these quotes for this amount. However, no quotes were provided into evidence.

4. \$30.00 – Window Screen Replacement

The Landlord stated that the window screens were all replaced part way through the tenancy, sometime in August of 2020. However, the Tenant's child put a hole in the screen in the living room window. A photo was provided into evidence showing the damage. The Landlord stated this is a conservative estimate based on what it cost him to replace the window screens earlier in the year. No receipt or invoice was provided.

5. \$168.00 – Telus receiver

The Landlord stated that the Tenant was provided a Telus receiver when he moved into the rental unit, and when he left, he took the unit with him. The receiver was noted in the move-in inspection report. The Landlord stated that this is the replacement cost for the receiver. However, it is not clear how this amount was ascertained. The Landlord noted that the Tenant returned the receiver a month after he moved out, but failed to return the power cord. The Landlord stated that he has not looked into replacing the power cord only.

6. \$6.00 – Door stopper

The Landlord pointed out that the Tenant removed the door stopper behind the front door, which is partly why there was drywall damage behind the door. The Landlord provided a receipt to show that this is what it will cost to replace the door stopper.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*.

Based on all of the above, the undisputed evidence and testimony, and on a balance of probabilities, I find the evidence before me sufficiently demonstrates that the Tenant caused damage to the rental unit in several ways, as itemized above.

As per the Monetary Order Worksheet, there were 6 items in total. These items will be addressed in the same order as above:

1. \$1,350.00 – July 2021 rent

I note the following portion of the *Act*:

Tenant's notice

- 45** (1) 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 the landlord receives the notice, and
 - (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

I find the Tenant breached section 45 of the *Act* by failing to give at least one month written notice to the Landlord. Further, although the Tenant moved out most of his belongings by July 1, 2021, I find he left behind damage and debris which would have made it difficult to re-rent for the month of July. I also note the Tenant left behind a trailer in the yard for over a month after he vacated, which further contributed to the inability to show and re-list the rental unit. I find the Landlord would have had limited ability to mitigate the lost rent for July 2021 based largely on the Tenant's short notice, and the remediation that was required. I find the Landlord is entitled to July rent, in full, due to the Tenant's breach of the *Act*.

2. \$250.00 – Cleaning/Carpet Cleaning

I accept the undisputed testimony and evidence showing the carpets were heavily stained when the tenant moved out. A receipt was provided. I also find there was a significant amount of dirt and debris which demonstrates little, if any, cleaning was done before moving out. I do not find the Tenant left the rental unit in a reasonably clean state, and I find he is liable for this item, in full.

3. \$1,100.00 – Damaged walls and repainting

I find the number of holes and damage left behind by the Tenant goes well beyond reasonable wear and tear. I also find the number and size of the holes in the walls are beyond what should be reasonably allowed to hang things such as photos or art. I find the Tenant breached section 37(2) of the Act when he left the unit with damaged walls and ceilings. I also note the rental unit was repainted only a year prior. I accept this would have caused the Landlord to incur loss to remediate the unit. However, I find there is little to no evidence to substantiate the value of the loss, as there were no quotes or corroboration provided. I find this is somewhat problematic, given this item is for a significant amount.

An arbitrator may also award compensation in situations where establishing the value of the damage or loss is not as straightforward:

“Nominal damages” are a minimal award. Nominal damages may be awarded where there has been no significant loss or no significant loss has been proven, but it has been proven that there has been an infraction of a legal right.

In this case, I find a nominal award of \$300.00 is appropriate. As such, I award this as a reduced amount, given the lack of evidence regarding repair costs.

4. \$30.00 – Window Screen Replacement

I accept that this item was nearly brand new and was replaced during the tenancy, only a matter of months before the tenancy ended. Although the landlord failed to provide an invoice or estimate for this item, I find the costs and estimate is reasonable. I award this item, in full, to replace the screen in the living room window.

5. \$168.00 – Telus receiver

I note this item was provided to the Tenant at the start of the tenancy and that the Tenant initially left with the receiver. However, it appears he returned it a month or so after he left. I am unclear why the Landlord has not inquired as to whether or not he can simply buy a replacement power cord, rather than replace the entire receiver. I find the Landlord has failed to sufficiently mitigate his losses in this regard, and is not entitled to the full amount. I am not satisfied that a missing power cord warrants a replacement of the entire receiver. I award a nominal award of \$30.00 to cover some of the costs to replace the power cord.

6. \$6.00 – Door stopper

I accept the undisputed evidence and testimony that the Tenant removed the door stopper and I find this amount should be paid by the Tenant. A receipt was provided, and this item is awarded in full.

Further, section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was substantially successful with his application, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

Also, pursuant to sections 72 of the *Act*, I authorize that the security deposit, currently held by the Landlord, be kept and used to offset the amount owed by the Tenant. In summary, I grant the monetary order based on the following:

Claim	Amount
Total of items listed above	\$1,966.00
Filing fee	\$100.00
Less: Security Deposit currently held by Landlord	(\$675.00)
TOTAL:	\$1,391.00

Conclusion

The Landlord is granted a monetary order in the amount of **\$1,391.00**, as specified above. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be 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: January 25, 2022

Residential Tenancy Branch