



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MND, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application for a Monetary Order for damage to the rental unit, compensation for damage or loss under the Act, regulations or tenancy agreement, retention of the tenants' security deposit and recovery of the filing fee. Both parties appeared at the hearing and had an opportunity to be heard and respond to the other party's submissions.

Issue(s) to be Decided

1. Whether the landlord has established an entitlement to compensation for damage to the rental unit and damage or loss under the Act, regulations or tenancy agreement.
2. Mutually agreeable terms to resolve this matter.
3. Award of the filing fee.

Background and Evidence

Upon hearing undisputed testimony I make the following findings. The fixed term tenancy commenced March 30, 2007 and the tenants vacated the rental unit November 30, 2008, before the expiry of the fixed term. The tenants had paid a security deposit of \$850.00 on February 20, 2007. The tenancy agreement provides that the landlord may charge \$350.00 if the tenants end the tenancy before the expiry of the fixed term, referred to as liquidated damages. The tenants and landlord conducted a move-in and move-out inspection together. The tenant did not sign the move-out inspection report

as the tenant did not agree that the report fairly represented the condition of the rental unit. The landlord made an application to retain the security deposit within 15 days of the tenancy ending.

In making the application, the landlord was seeking to recover \$8,603.55 in compensation from the tenants; however, the landlord reduced their claim to \$3,004.68 at the commencement of the hearing.

Following much testimony and discussion, a mutual agreement was reached between the parties. The tenant offered to pay the following amounts and the landlord agreed to accept the following amounts as compensation for damages to the rental unit and damage or loss under the Act, regulations or tenancy agreement:

Priming and painting the walls	\$ 250.00
Removal of planter	36.75
Replace damaged hardwood floor boards	656.25
Replace portion of carpet (see calculation below)	427.92
Miscellaneous repairs	149.80
Liquidated damages	<u>350.00</u>
Total damages	<u>\$ 1,870.72</u>

The compensation for the carpeting was agreed to be one-half of the depreciated value of the carpet. As I heard the carpet was five years old and carpet has an average useful life of 10 years, the depreciated value of the carpet was calculated to be \$855.84 (\$1,711.68 replacement cost x 50%). One-half of the depreciated value is \$427.92 (\$855.84 x 50%).

Analysis

I accept the settlement reached between the parties during the hearing and make it binding upon them. I award one-half of the filing fee to the landlord. The landlord is authorized to retain the tenants' security deposit and accrued interest of \$873.91 in partial satisfaction of the amount owed to the landlord. I provide the landlord with a Monetary Order for the balance of \$1021.81 ($\$1,870.72 + \$25.00 - \873.91). The tenants are ordered to pay the landlord \$1,021.81 forthwith.

To ensure payment by the tenants the landlord is provided a Monetary Order to serve upon the tenants. The landlord may also file the Monetary Order in Provincial Court (Small Claims) to enforce as an Order of that court.

Conclusion

The parties reached a mutual agreement to settle the landlord's claims. The landlord is authorized to retain the tenants' security deposit and accrued interest in partial satisfaction of the amount owed to the landlord. The landlord is also provided with a Monetary Order for the amount of \$1,021.81.

February 10, 2009

Date of Decision

Dispute Resolution Officer