



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This matter dealt with an application by the landlord to obtain a Monetary Order for damage to the unit, site or property, for unpaid rent, for money owed or compensation for loss or damage under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement, an Order to keep the security deposit and to recover the filing fee for this application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, and was handed in person to the tenant on September 11, 2010. The person who served the tenant attended the hearing and gave sworn testimony that service took place as declared.

The landlord appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for
 1. Damage to the rental unit?
 2. Unpaid rent?
 3. Money owed or compensation for damage or loss?
- Is the landlord entitled to keep the security deposit?



Dispute Resolution Services

Page: 2

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

Background and Evidence

This tenancy started on August 01, 2009. Rent for this unit was \$1,345.00 per month and was due on the first day of each month. The tenant paid a security deposit of \$672.50 on July 11, 2009. This was a fixed term tenancy which expired on July 31, 2010 and the tenant moved from the rental unit on that day.

The landlord testifies that the tenant did not pay rent for July, 2010. The cheque provided by the tenant for his rent was returned by the bank as there were insufficient funds available. The landlord contacted the tenant over the month of July however the tenant failed to pay the rent. The landlord seeks to recover unpaid rent of \$1,345.00.

The landlord testifies there is a clause in the addendum to the tenancy agreement which states the tenant must pay any bank charges incurred for returned cheques. The landlord states she was charged the sum of \$32.50 in bank charges and administrative fees and seeks to recover this from the tenant.

The landlord testifies that she asked the tenant to attend a move out condition inspection with her at the end of the tenancy. Dates were agreed upon but the tenant failed to attend. The landlord then gave the tenant a final opportunity for inspection form with dates and times for inspection. However, the tenant failed to respond and did not attend a move out inspection.

The landlord testifies the tenant left the rental unit in a filthy condition with some damage to the walls in a bedroom which had been occupied by the tenants' son. The landlord states there were holes in the walls which she had to patch and repaint the walls. The landlord seeks to recover this cost from the tenant of \$135.00. The landlord and two friends had to clean the rental unit and remove the tenants' belongings which he had abandoned to the landlords garage. The landlord seeks the cost for this work to the sum of \$215.00.

The landlord testifies that at the start of the tenancy she lent the tenant some of her own furniture to help him out. At the end of the tenancy she found the bed frame had been broken



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

and as this was a year old she states replacement costs would be \$99.99 however she claims the sum of \$69.00 due to depreciation. The landlord states a chair was also broken beyond repair and seeks to recover the sum of \$15.00 and a television set was broken. The landlord states the television worked when she lent it to the tenant. At the end of the tenancy she found it covered in scratches with a sticky substance all over it and it no longer worked. She seeks to recover the sum of \$50.00 to replace this with a second hand television.

The landlord states she had to store the tenants' belongings in her garage for the required period of time and had to park her car in the street due to this. The landlord seeks compensation for this storage at the sum of \$150.00. As the tenant failed to collect his belongings these were disposed of at a cost of \$100.00.

The landlord testifies that the tenant failed to return his keys at the end of the tenancy. The landlord paid \$129.00 to have the locks rekeyed and for four replacement keys to the unit and has provided a receipt for this work.

The landlord testifies that she took photographs of the unit at the end of the tenancy to detail the damages, cleaning and the mess left behind by the tenant. The landlord seeks to recover the sum of \$16.66 for these photographs.

The landlord seeks to keep the tenants security deposit of \$672.50 in partial satisfaction of the unpaid rent and seeks to recover her filing fee of \$50.00.

Analysis

The tenant did not appear at the hearing to dispute the landlords claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I have carefully considered the landlords documentary evidence and affirmed testimony before me. With regard to the landlords claim for unpaid rent; s. 26 of the *Act* states:

- 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.

Consequently, I find the tenant did not have a right under the *Act* to withhold rent for July, 2010 and as such the landlord has established her claim to recover the amount of **\$1,345.00** from the tenants pursuant to s. 67 of the *Act*. As the landlord has shown the tenants cheque was returned by the bank she is entitled to recover bank charges. The landlord has claimed \$32.50, however, section 7 of the Residential Tenancy Regulations states a landlord is only entitled to charge a tenant the sum of **\$25.00** due to bank fees. Consequently, this is the sum the landlord may recover from the tenant pursuant to s. 67 of the *Act*.

With regards to the landlords claim for damage to the unit; s. 32 (2) and (3) of the *Act* states a tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the tenant must repair damage to the rental unit caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant. It is my decision that the landlord has provided sufficient evidence to show damage to the walls which required repair, the filthy condition of the unit which required cleaning and the tenants' belongings left behind which had to be removed. Consequently, the landlord is entitled to recover the sum of **\$350.00** for carrying out this work pursuant to s. 67 of the *Act*.

With regard to the landlords claims for damage to her property, I find the landlord has established her claim for compensation for the damage caused to the bed frame, chair and television and I am satisfied that this damage was caused to the landlords belongings during the tenancy. The landlord has deducted an amount for depreciation from these items and seeks a nominal cost in compensation. Consequently, the landlord is entitled to recover the sum of **\$134.00** from the tenant pursuant to s. 67 of the *Act*.

With regard to the landlords claim, for storage and disposal of the tenants belongings; the landlord seeks compensation for having to store and dispose of the tenants belongings in accordance with the regulations. I am satisfied that the landlord has acted in accordance with s.

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

24 and 25 of the Residential Tenancy Regulations and is therefore entitled to compensation for storage costs and to recover costs to dispose of the tenants belongings. The landlord is therefore entitled to the sum of **\$250.00** pursuant to s. 67 of the *Act*.

With regard to the landlords claim for re-keying the locks; The Residential Tenancy Branch guidelines #1 state that a tenant must return the keys to the rental unit at the end of his tenancy. The landlord has provided an invoice from a locksmith to have the locks re-keyed and for replacement keys to the sum of \$129.00. Consequently, I am satisfied with the landlords' evidence that the tenant did not return the keys at the end of the tenancy and the landlord is entitled to recover the sum of **\$129.00** from the tenant pursuant to s. 67 of the *Act*.

The landlord seeks to recover the cost of having photographs processed for evidence. As this is a cost of doing business as a landlord it is the landlords' decision what evidence she wants to present and as such must bear the cost of photograph processing herself. This section of the landlords claim for \$16.66 is therefore denied.

I also Order, pursuant to s. 38(4)(b) of the *Act*, that the landlord may retain the full security deposit of **\$672.50** towards the outstanding rent.

As the landlord has been largely successful with her claim I find she is entitled to recover the **\$50.00** filing fee from the tenant pursuant to s. 72(1) of the *Act*. A Monetary Order has been issued to the landlord for the following amount:

Unpaid rent for July, 2010	\$1,345.00
Damages and cleaning	\$350.00
Damage to furniture	\$134.00
Storage and disposal of tenants belongings	\$250.00
Rekeying and replacement keys	\$129.00
Subtotal	\$2,233.00
Plus filing fee	\$50.00



Dispute Resolution Services

Page: 6

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

Less security deposit	(-\$ 672.50)
Total amount due to the landlord	\$1,610.50

Conclusion

I HEREBY FIND largely in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,610.50**. The order must be served on the respondent and is enforceable through the Provincial Court 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 11, 2011.

Residential Tenancy Branch