



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a monetary order for damage to or cleaning of the rental unit, for compensation under the Act and the tenancy agreement, to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Agent for the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent for the Landlord testified they served the Tenant with the Notice of Hearing and Application by sending it registered mail on July 11, 2012. Under the Act registered mail is deemed served five days after mailing. I note that failure or neglect to accept registered mail is not a ground for review under the act. I find the Tenant has been duly served in accordance with the Act.

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.

Issue(s) to be Decided

Is the Landlord entitled to monetary compensation from the Tenant?

Background and Evidence

This tenancy began on or about April 1, 2011, with the parties entering into a one year fixed term tenancy agreement, which converted to a monthly tenancy following the end of the term. Rent was \$1,375.00 per month, payable on the first day of the month, and the Tenant paid the Landlord a security deposit of \$687.50. At the outset of the tenancy the Landlord performed a condition inspection report in accordance with the Act.

On April 29, 2012, the Tenant was served with a two month Notice to End Tenancy as the rental unit had been sold.

The Tenant vacated the property on or about June 30, 2012. However, the Landlord claims it has incurred or will incur substantial costs to clean and repair the rental unit due to the condition it was left in by the Tenant.

The Landlord claims as follows:

a.	Carpet cleaning, wall repair and painting	526.40
c.	Unreturned parking pass	25.00
d.	Unpaid utilities	66.35
e.	Filing fee	50.00
	Total claimed	\$742.75

At the end of the tenancy the Landlord performed an outgoing condition inspection report, however, the Tenant did not attend this. The Landlord had given two opportunities for the Tenant to participate in the outgoing condition inspection report. The Landlord posted the final notice to attend the outgoing inspection on the rental unit door. The Tenant wrote his forwarding on the back of the notice and left it at the rental unit.

In support of the Application, the Landlord has supplied evidence and photographs regarding the unpaid utilities for April of 2012, the carpet cleaning, wall repair and painting, the condition inspection reports, the tenancy agreement, and notices given to the Tenant.

Analysis

Based on the uncontradicted evidence, photographs and testimony of the Landlord, and on a balance of probabilities, I find that the Tenant has breached section 37 of the Act by failing to leave the rental unit reasonably clean and undamaged, except for reasonable wear and tear.

I also find the Tenant failed to clean the rental unit and carpets, and left portions of the walls damaged, requiring repairs and repainting. I also find the Tenant failed to pay the final utility bill and move out fee.

I also find that by failing to attend the outgoing condition inspection report the Tenant has extinguished any right to the return of the security deposit under section 36 of the Act.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the Landlord has established a total monetary claim of **\$742.75** comprised of the above described amounts and the \$50.00 fee paid for this application.

I order that the Landlord retain the deposit of **\$687.50** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$55.25**

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: September 21, 2012.

Residential Tenancy Branch