



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Capreit LP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for compensation - Section 67;
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started on February 1, 2013 and ended on November 30, 2015. Rent of \$1,125.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected a security deposit of \$562.50, a pet deposit of \$562.50 and a fob deposit of \$65.00. The Parties mutually conducted a move-in inspection and completed a report. The tenancy agreement provides for a \$25.00 late fee and a \$25.00 fee for the return of a cheque due to insufficient funds. No offer for a move-out inspection was made by the Landlord. The Tenant did not pay rent for November 2015. The Tenant did not return a laundry card that costs \$10.00 for its replacement.

The Landlord claims \$25.00 as a late rent fee and \$25.00 for an NSF fee. The Tenant cancelled an automatic payment for this month and the Landlord does not know whether the Landlord pays any bank penalty for such cancellation.

The Landlord states that the Tenant failed to return the mail key and claims \$50.00. The Landlord states that they pay \$30.00 as costs to replace the key. The Tenant states that the keys were returned to the Landlord through the Landlord's mail slot but that the Landlord was not present at the time as was the usual case.

The Landlord states that the Tenant left the unit with garbage and claims \$150.00. The Landlord states that the garbage was a microwave oven that was stored for a period of time and then disposed of later along with several other items that were collected over time. The Tenant states that this is an exorbitant amount to claim for storage and such disposal and that the microwave was in perfectly fine working order.

The Landlord states that the Tenant left the unit unclean, including the carpets and claims \$260.00. The Landlord states that this is a flat charge that they pay to their vendor regardless of the state of the unit. The Landlord states that other than the carpet the Tenant left markings inside a closet and did not clean the stove hood and bathroom and laminate floor. The Tenant states that the carpet in the unit was beyond cleaning and needed to be replaced right at the start of the tenancy. The Tenant states that the Landlord agreed at the start of the tenancy that the carpet was to be replaced however this was never done. The Tenant states that it owns his own steam cleaner and cleaned the carpets several times without success. The Tenant notes that the cleaning costs are only a lump sum and not detailed.

Analysis

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. Based on the undisputed evidence that November 2015 rent was unpaid I find that the Landlord has substantiated an entitlement to **\$1,125.00**. Based on

the undisputed evidence of the loss of the laundry card I find that the Landlord has substantiated its claim to **\$10.00**. Given the provision in the tenancy agreement the Landlord is also entitled to **\$25.00** as a late payment. As no cheque was returned NSF I dismiss the Landlord's claim for this fee.

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

I accept the Tenant's persuasive evidence of the return of the mail key. However, even if the Tenant did not return the mail the key, the Landlord claimed an amount greater than the cost to replace the mail key. As a result I dismiss the claim for the mail key.

As the Landlord's evidence of the storage and disposal of the microwave does not substantiate a disposal cost of \$150.00, which I find to be excessive in the circumstances, I dismiss this claim. As the cleaning costs are not detailed and considering the Tenant's persuasive evidence of the state of the carpet I find that the Landlord has not substantiated that the carpet was in fact able to be cleaned or that the Tenant left the unit unclean to the extent claimed and I dismiss this claim.

As the Landlord's claim has mostly met with success I find that the Landlord is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$1,215.00**. Deducting the total of the Tenant's deposits plus zero interest of **\$1,190.00** from this amount leaves **\$25.00** owed by the Tenant to the Landlord.

Conclusion

I Order the Landlord to retain the security and pet deposit plus interest and the fob deposit totalling \$1,190.00 in partial satisfaction of the claim and I grant the Landlord an

order under Section 67 of the Act for the remaining amount of **\$25.00**. If necessary, this order may be filed in the Small Claims Court and 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: July 08, 2016

Residential Tenancy Branch