



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNSD FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for loss as a result of damage to the rental unit pursuant to section 67;
- 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;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 2:30 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony and present evidence.

The landlord testified that on March 26, 2018, a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the tenant by registered mail. The landlord provided a registered mail receipt and tracking number in support of service. The landlord testified the package was mailed to a forwarding address which is a PO Box # provided by the tenant to the landlord a couple days before the end of the tenancy. The landlord testified that this PO Box # was also used by the tenant in a previous dispute resolution application filed by the tenant prior to the end of the tenancy. The landlord testified the mail package was returned to the landlord as unclaimed.

Based on the above evidence, I am satisfied that the tenant is deemed served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

Issues

Is the landlord entitled to compensation for loss as a result of damage to the rental unit?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The tenancy began on August 17, 2017 with a monthly rent of \$540.00 payable on the 1st day of each month. The rental unit is a partially furnished one bedroom apartment. The tenant paid a security deposit of \$270.00 and a key deposit of \$100.00 at the start of the tenancy which the landlord continues to hold.

The landlord submitted a "monetary order worksheet" which provides a detailed breakdown of the landlord's claims totaling \$2110.85. The landlord testified that the tenant left the rental unit in a state of uncleanness and disrepair. The landlord submitted a move-in and move-out condition inspection report plus various pictures of the rental unit at the end of the tenancy as evidence. The landlord testified that the tenant did not return the keys or participate in the move-out inspection. The landlord's submitted receipts and/or undisputed testimony in support of each of the detailed items as per the monetary order worksheet.

Analysis

Section 7 of the Act provides for an award for compensation for damage or loss as a result of a landlord or tenant not complying with this Act, the regulations or their tenancy agreement. Under this section, the party claiming the damage or loss must do whatever is reasonable to minimize the damage or loss.

Section 37 of the Act requires 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.

I find that the tenant did not leave the rental unit reasonably clean and undamaged and this is supported by the landlord's documentary evidence submissions and undisputed testimony. I find that the landlord has established the existence of the damage or loss as claimed and that it occurred due to the actions or neglect of the tenant. The landlord

has also submitted evidence in support of the actual amounts required to compensate for the loss or repair the damage.

I accept the landlord's uncontested testimony and supporting evidence and find the landlord has suffered a loss as claimed in the amount of \$2110.85.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$2210.85.

The landlord continues to hold a security deposit and key deposit in the amount of \$370.00. I allow the landlord to retain the security deposit and key deposit in partial satisfaction of the monetary award pursuant to section 38 of the Act.

Therefore, I find that the landlord is entitled to a Monetary Order in the amount of \$1840.85.

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$1840.85. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: October 16, 2018

Residential Tenancy Branch