

DECISION

Dispute Codes: MND, MNR, MNSD, MNDC, FF, O

Introduction

This hearing dealt with a cross applications by the parties. The landlord applied for a monetary order for damages, unpaid utility charges and loss of income and an order to retain the security deposit in partial satisfaction of the claim. The tenants applied for a monetary order for money owed under the tenancy agreement and the return of their security deposit and pet damage deposit.

Background and Evidence

On June 22, 2008, the landlords collected a \$500.00 security deposit and a \$100.00 pet damage deposit from the tenants. The tenancy began on the same day for a fixed term ending June 30, 2009. On January 5, the tenants gave written notice to the landlords that they would be moving out on January 31, 2009. On January 29, both parties participated in a move-out condition inspection and signed the resulting report.

Issues to be Decided

Whether the landlords are entitled to a monetary order for damages, unpaid utility charges and loss of income?

Whether the landlords are entitled to an order to retain the security deposit in partial satisfaction of their claim?

Whether the tenants are entitled to a monetary order for money owed under the tenancy agreement?

Analysis

Loss of Income

The landlords said that immediately after the tenants gave notice to vacate on January 5, they began their efforts to re-rent the unit. They started negotiations with the female landlord's employer who expressed interest in renting the unit but they were unsuccessful. Thereafter, they began advertising on several websites and the newspaper. The landlords added that during the week of January 5, they showed the unit to a prospective renter. Eventually, the landlords were able to re-rent the unit for March 15. The landlords are seeking recovery of their loss of income for February in the amount of \$1000.00. The tenants thought that the landlords should have started advertising in the newspaper earlier. Based on the above, I find that the landlords are entitled to recovery of loss of income for February and I allow a claim of \$1000.00.

Liquidated Damages

The landlords referred to clause 5 of the tenancy agreement which states that the tenants must pay the landlords \$300.00 as liquidated damages if the tenants ended their tenancy before the end of the fixed term as set out in the tenancy agreement. In this case, the tenants ended the tenancy on January 31 whereas the end of the fixed term tenancy is June 30, 2009. Based on the above, I find that the landlords are entitled to recovery of an amount of liquidated damages as stipulated in the tenancy agreement and I allow a claim of \$300.00.

Outstanding Utility Charges

The landlords are seeking recovery of outstanding utility charges in the amount of \$24.26. The landlords said that when completing the move-out condition inspection report on January 29, the tenants had agreed to this deduction from their security deposit. The tenants did not dispute the landlords' assertion in this regard. I therefore find that the landlords are entitled to recovery of outstanding utility charges and I allow a claim of \$24.26.

Repair and Repaint Wall

The landlords said that there was a dent in bedroom #1 that needed to be repaired. The landlords referred me to the move-out condition inspection report dated January 29 which shows that there was a 2 inch dent to the wall in bedroom #1. The tenants acknowledged that they had signed the report with this notation. The landlords are seeking recovery of \$200.00 for repairing and repainting the one wall in the bedroom #1. They submitted receipts which total approximately \$79.40. The landlords said that they had spent 2.7 hours working on the repair and they are asking for compensation at a rate of \$50.00 an hour which total to \$135.00. The landlords are seeking recovery of the materials and labour for a total of \$200.00. The tenants did not dispute the costs of labour. Rather, they said that the costs of the materials should have been no more than \$10.00. The tenants did not provide any documentary evidence to support their claim. Based on the above, I find that the landlords are entitled to recovery of the costs for repairing the walls and I allow a claim of \$200.00.

Replacing Light Diffusers

The tenants did not dispute that the light diffusers were broken during their tenancy. The landlords are seeking recovery of the costs of replacing the light diffusers and they submitted a receipt dated February 10, 2009 for the amount of \$26.85. The tenants thought that the costs were too high but they did not submit any documentary evidence to support their claim. Based on the above, I find that the landlords are entitled to recovery of the costs for replacing the light diffusers and I allow a claim for \$26.85.

Cleaning Up Dog Feces

The landlords said that the tenants left dog feces in the backyard but they could not pick them up until the snow melted in mid March. The tenants acknowledged having agreed to a \$50.00 deduction for removal of dog feces in the move-out condition inspection report dated January 29. But subsequently, their daughter

told them that she had removed such wastes. The landlords said that the tenants could not have dug up all of the dog feces from the backyard because the snow did not melt until mid March. I find the landlords' explanation to be reasonable and I have accepted it as credible and trustworthy. Accordingly, I also find that the landlords are entitled to compensation for their labour in removing the dog feces and I allow a claim of \$50.00.

Tenants' Claim

The tenants said they had paid the landlords utility charges which total to \$676.00. They maintained that they should not have paid the landlords this amount. Rather, they should have set up their own utility accounts. The tenants acknowledged that the tenancy agreement did not include any of the utilities. I therefore dismiss the tenants' claim in this regard.

Conclusion

Based on all of the above, I find that the landlords have established a total claim of \$1601.11. The landlords are also entitled to recovery of the \$50.00 filing fee. I order that the landlords to retain the security deposit, pet damage deposit and interests of \$604.75 in partial satisfaction of the claim and I grant the landlords an order under section 67 for the balance due of \$1046.36. This order may be filed in the Small Claims Court and enforced as an order of that Court.