



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes

MNR, MNDC, & FF

Introduction

This hearing dealt with an application by the landlord for a monetary claim for unpaid rent by the tenants. Both parties appeared for the hearing, provided affirmed evidence and were given the opportunity to cross examine and respond to the evidence presented by the other party.

Issue to be Determined

Has the landlord established a monetary claim for the sum of \$1,300.00 related to non-payment of rent by the tenants?

Background and Evidence

This tenancy began on April 1, 2005 for the monthly rent of \$1,250.00 and ended on May 30, 2007.

The landlord submitted in the hearing that for the period of April 1, 2005 to June 30, 2007 the rent was reduced by \$50.00 per month on the basis that the tenants would complete some basic yard work. The landlord's witness stated in the hearing that this agreement was made between himself and the tenants but that the tenants failed to honour the agreement. The witness was unable to provide any details about the alleged verbal agreement such as what the specific duties to be completed were, if there was to be some form of record of work completed, or what date this agreement was allegedly made between himself and the tenants.

The landlord stated that he did not enter into any agreement with the tenants and also stated that his agent had no authorization to make an agreement with the tenants. The landlord relied heavily on the tenancy agreement which has a clause that there is to be no agreements that are not in writing.

The landlord could not provide any reasonable explanation as to why this issue was not identified at the time he was receiving rent cheques from the tenants for \$1,200.00 instead of \$1,250.00. The landlord also claimed that the tenants did not pay a security deposit but was very upset that the tenants had filed a separate application for Dispute Resolution claiming the return of their security deposit (no file number or previous decisions were provided in the evidence).

The tenants deny the statements of the landlord and his witness. The tenants stated that an oral agreement was reached between themselves and the landlord to reduce the rent by \$50.00 to complete basic yard maintenance such as cutting the grass. The tenants stated that the landlord provided the electric lawn mower. The tenants submitted documentary evidence of a letter written on June 8, 2008 by the landlord confirming the oral agreement.

The tenants also questioned the validity of the rent receipts submitted as evidence by the landlord as they stated that they never received any receipts for rent during the tenancy. On examination the landlord confirmed that the receipts were written after the tenancy had ended for the hearing based on his records.

Analysis

The landlord has the burden of proving his claim for monetary damages in the sum of \$1,300.00 based on the reduction of \$50.00 per month rent for the period of April 1, 2005 to June 30, 2007.

I do not find the evidence of the landlord or his witness to be credible as it is inconsistent with the letter the landlord provided to the tenants on June 8, 2008. I place more weight on the landlord's written letter of June 8, 2008 which clearly confirms that he entered into an agreement with the tenants to reduce their rent by \$50.00 per month if basic yard work and building maintenance was completed. The landlord must then prove, on the balance of probabilities, that the tenants did not fulfill this oral agreement.

I find that the landlord has failed to present any evidence to show that the oral agreement was not completed. The only evidence present by the landlord was the evidence of his witness who states that no work was completed. However, I find that I can not place any weight on the evidence of the witness as his evidence is not credible. The witness testified in the hearing that the oral agreement was made between him and the tenants and that evidence is inconsistent with the landlord's letter of June 8, 2008. The witness was also unable to provide any reasonable details of the alleged agreement which would convince me that he was a party to the oral agreement.

I find that the landlord has failed to establish that the tenants did not perform the basic yard work and maintenance in exchange for the rent reduction of \$50.00 per month. I find that the agreement was fulfilled on the basis that for the entire length of the agreement the landlord accepted, without any dispute, the reduced rent from the tenants.

Conclusion

I dismiss the landlord's application as it is without merit. The landlord has failed to establish, on the balance of probabilities, that the tenants did not fulfill the verbal agreement for a rent reduction of \$50.00 per month for the period of April 1, 2005 to June 30, 2007.

Dated April 08, 2009.

Dispute Resolution Officer