



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing and had opportunity to be heard.

Issue(s) to be Decided

Is the landlord entitled to a monetary order as requested?

Background and Evidence

The parties agreed that the tenancy began on October 15, 2008 at which time a security deposit of \$312.50 was paid. Rent was set at \$625.00 per month. The parties further agreed that on or about January 27 the tenant gave notice that he would be vacating the rental unit on February 15. The landlord's agent advised the tenant that his notice would be effective on February 28 and the tenant paid rent through to the end of February.

The landlord submitted an unsigned letter from his agent, P.J., in which she advised that she discovered on March 4 that the tenant had not vacated the rental unit, but had left his belongings therein. P.J. wrote that she contacted the tenant's wife in another city and was told that the tenant would be continuing his tenancy. P.J. wrote that on or about March 11 she received a telephone call from the tenant's wife advising that the tenant had vacated the rental unit on March 9 or 10. The landlord also submitted a signed, unsworn statement from an individual retained to clean the rental unit in which she stated that on March 4 she entered the rental unit and saw personal belongings in the unit.

The tenant testified that he vacated the rental unit on February 28 and denied having

left his belongings in the rental unit past that date.

The landlord seeks a monetary order for loss of income for March and April as he was unable to re-rent the unit during those months and further seeks to recover \$64.00 in cleaning and carpet cleaning costs.

Analysis

I prefer the sworn, firsthand evidence of the tenant over the unsworn evidence of the landlord's agent, which was presented in the form of an unsigned letter. I find that the tenant vacated the rental unit on February 28 pursuant to his notice and dismiss the landlord's claim for loss of income for March and April. The landlord did not submit any documentary evidence showing that any monies were paid for cleaning or carpet cleaning or an invoice showing that these tasks were performed and I find that the landlord has failed to prove the claim for cleaning costs on the balance of probabilities. The landlord's claim is dismissed in its entirety.

The landlord was unsuccessful in his claim against the security deposit. Residential Tenancy Policy Guideline #17 provides that when a landlord makes a claim against the security deposit and any part of the deposit is not awarded to the landlord, the landlord should be ordered to return the security deposit to the tenant. Accordingly, I order the landlord to pay \$313.50, which represents the security deposit and interest accrued to the date of this judgment, to the tenant forthwith. A written order is enclosed and may be filed in the Small Claims Division of the Provincial Court for enforcement.

Conclusion

The landlord's claim is dismissed. The landlord is ordered to return the security deposit and interest to the tenant.

Dated June 17, 2009.