

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with cross Applications for Dispute filed by the parties.

The Landlord applied for monetary orders for unpaid rent, to keep all or part of the security deposit and pet deposits, for monetary compensation under the Act or tenancy agreement, and for the return of the filing fee.

The Tenants applied for monetary orders for the return of their security deposit, pet deposit, hydro deposit, and for their filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issues(s) to be Decided

Is the Landlord entitled to the monetary orders sought?

Are the Tenants entitled to the monetary orders sought?

Background and Evidence

The parties signed a written tenancy agreement on May 7, 2008. It was a term of the agreement that the tenancy would last from May 1, 2008, until April 30, 2009.

Other terms and conditions in the agreement which are relevant to this dispute are that the Landlord would charge an extra \$50.00 a month for additional occupants in the unit, and the Tenants were responsible for cutting the lawn or the Landlord could cut it at a rate of \$75.00 each time.

The Tenants had their son move into the rental unit for five months during the tenancy.

The Landlord had to mow the lawn three times in April of 2009, as the Tenants vacated the unit before April of 2009.

The Tenants phoned the Landlord in early March of 2009, and informed him they were vacating the rental unit on March 31, 2009. The Landlord wrote the Tenants a letter on March 9, 2009, explaining that since they were moving out, he was giving them Notice that he would showing the rental unit to other prospective renters. In that letter the

Landlord also pointed out to the Tenants that tenancy agreement did not expire until April 30, 2009.

The Tenants vacated the rental unit on March 30, 2009. The parties performed a condition inspection report and the Tenants did not sign over all or a portion of the security deposit or pet deposit to the Landlord. The Tenants provided their forwarding address on the condition inspection report.

The Landlord filed an application to keep the pet and security deposits within 15 days of the end of the tenancy, and amended his Application request for a monetary order on July 6, 2009. The Landlord seeks \$1,000.00 for unpaid rent for April of 2009, \$592.85 in advertising costs to find new renters, \$250.00 for five months of an extra occupant, and the filing fee of \$50.00

The Tenants claim they did not intend to sign a 13 month tenancy agreement, and at the time it was presented to them, they thought it was a 12 month term. They had previously had a 12 month term in a tenancy agreement with the same Landlord.

The Tenants claim \$950.00 for the pet and security deposits, \$100.00 for the hydro deposit, \$344.00 for lost wages to attend the hearing, and \$220.00 for loss of use of their cable TV.

Analysis

Based on the foregoing, the relevant evidence and testimony, and on a balance of probabilities, I find as follows:

I find that the Landlord's claims for unpaid rent, for the extra occupant and for cutting the lawn, should be allowed. The Tenants signed the agreement and each page contained an acknowledgement that they had read that page, and the Tenants signed each page. The 13 month term of the agreement is clearly written on the first page of the agreement. Therefore, I find that the Tenants breached the agreement and vacated the unit one month prior to its termination. They are required to pay the Landlord **\$950.00** for one month of rent.

The Tenants also acknowledge that their son was an extra occupant in the unit and are liable to the Landlord for **\$250.00** (five months at \$50.00 each), in accordance with the agreement.

I allow the Landlord **\$225.00** for cutting the lawn at the unit, three times in April, when the Tenants should have been cutting the lawn.

I dismiss the claim of the Landlord for advertising costs, as the Tenants are compensating the Landlord for the month of rent they did not pay, and following that, the Tenants were required to vacate the rental unit in any event. Therefore, advertising

costs are a cost the Landlord would have incurred, regardless of the Tenants' breach of the Agreement and the Act. For the same reasons, I also find the Landlord is not entitled to any claim for costs of showing the unit.

I dismiss the claims of the Tenants entirely, as I find the claims were without merit and I am ordering the Landlord may retain the deposits and interest in partial satisfaction of his claim. The Landlord claimed against the deposits in accordance with the Act and is entitled to the set off, which I will calculate below.

I find the Tenants are not entitled to compensation for lost wages for attending the hearing. Likewise, the Tenants are not entitled to the cost of their cable TV from the Landlord.

Conclusion

I find that the Landlord has established a total monetary claim of **\$1,475.00** comprised of the above described amounts and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit and interest of **\$1,077.80** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$397.20**. This order may be filed in the Provincial Court (Small Claims) 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 31, 2009.

Dispute Resolution Officer