



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND, MNDC, MNSD, FF

Introduction

This hearing was convened to deal with the landlord's application for a monetary order for unpaid rent, for damage to the unit, for compensation for damage or loss under the Act, regulation or tenancy agreement, and for an order to keep all or part of the security deposit in partial satisfaction of the claim.

Both parties appeared by way of conference call and gave evidence at this hearing.

Issues(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to a monetary order for a mail box key and cleaning?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

This tenancy began on September 1, 2008 as a fixed term tenancy with an expiry date of August 31, 2009. The Tenancy Agreement was not entered into evidence, but the landlord gave evidence that it stated that at the end of the term, the tenancy would continue in accordance with the *Residential Tenancy Act*, meaning that it would revert to a month-to-month tenancy.

The tenant paid his monthly rent by mailing a cheque to the landlord, and on August 1, 2009 he sent his notice to vacate the unit along with the rent cheque for August. The

tenant vacated the unit on August 31, 2009. The landlord is claiming rent for September, 2009.

The parties agree that the landlord phoned the tenant, who agreed to pay for cleaning the carpet.

The tenant left keys on the counter inside the unit, but did not leave the mail box key. The landlord paid \$25.00 to a locksmith, who did not charge a service call for the service since he was already at the building for another call. At the hearing, the tenant agreed to pay \$25.00 for the mail box key that was not returned.

The landlord is also claiming \$100.00 for cleaning the unit after the tenant vacated. He stated that the new tenant agreed to clean it, and he paid her \$100.00 to do so. The tenant states that he cleaned the unit before he left and disputes the \$100.00 claim. The landlord testified that a move-in and move-out inspection was done after the tenant left, but did not do so in the presence of the tenant and did not provide the tenant with a copy.

Analysis

Firstly, dealing with the claim for rent for September, 2009, Section 45(2) of the *Residential Tenancy Act* states that:

45 (2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

- (a) is not earlier than one month after the date the landlord receives the notice,
- (b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and
- (c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

The tenant did not ensure that his notice to end the tenancy was received by the landlord by the 31st of July, 2009, and therefore is deemed to have given his notice for September 30, 2009. I find that the tenant is responsible under the *Act* for rent for that month.

Sections 23(3) and 35 of the *Residential Tenancy Act* both state that the landlord must offer the tenant at least 2 opportunities, as prescribed, for the inspection. The *Act* places the obligation on the landlord to complete the condition inspection report in accordance with the regulations and states that both the landlord and tenant must sign the condition inspection report and the landlord must give the tenant a copy of that report in accordance with the regulations. Part 3 of the Regulations goes into significant detail about the specific obligations regarding how and when the Start-of-Tenancy and End-of-Tenancy Condition Inspections and Reports must be conducted. Because the landlord has not complied with the requirement under Section 23(3), I cannot award the \$100.00 claim as against the tenant.

The tenant has agreed to pay the fee for cleaning the carpets, and I hereby award to the landlord \$131.25 for that service. The tenant also agreed to the \$25.00 for the lock replacement on the mail box.

Conclusion

The landlord's claim for cleaning the apartment for \$100.00 is hereby dismissed without leave to reapply.

The landlord's claim for unpaid rent in the amount of \$1,400.00 for the month of September, 2009 is allowed.

The landlord's claim for cleaning the carpet is hereby awarded at \$131.25.

The landlord's claim for the mail box key is hereby awarded at \$25.00.

Since the landlord was partially successful in his claim, I hereby order that the landlord recover the \$50.00 filing fee from the tenant for the cost of this application.

I also order that the landlord be entitled to retain the security deposit in the amount of \$700.00 in partial satisfaction of the claims herein.

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: February 25, 2010.

Dispute Resolution Officer