

DECISION

Dispute Codes MND, MNR, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution for a monetary order.

The hearing was conducted via teleconference and was attended by the landlord only. The tenants did not attend.

The landlord confirmed in writing the male tenant was served in person with the notice of hearing documents. The landlord also submitted that the female tenant refused to accept the notice of hearing documents at that time but that she was aware of the dispute.

The female tenant claimed that she was not a party to the dispute because she wasn't on the tenancy agreement. The landlord submitted into evidence rent cheques that were written by the female tenant, the notice to end the tenancy which was written by the female tenant and the tenancy agreement, while not signed by the female tenant, does list her as a tenant. As such, I find the female occupant of the rental unit was a tenant and is jointly and severely responsible for any claims filed by the landlord.

I am satisfied the male tenant was served in accordance with Section 89 of the *Residential Tenancy Act (Act)*. I am also satisfied that in accordance with Section 71 (2)(b) the female tenant has been sufficiently served for the purposes of the *Act*.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; damage to the rental unit and cleaning costs owe; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to sections 26, 37, 45, 67, and 72 of the *Act*.

Background and Evidence

The tenancy began on September 1, 2009 as a month to month tenancy for a monthly rent of \$850.00 due on the 1st of the month. The tenancy ended after the tenants moved out sometime between December 9, 2009 and January 3, 2010 while the landlords were away.

The landlord has submitted into evidence the following documents:

- A summary of events of the tenancy and of serving the notice of hearing documents;
- A summary of actual losses and expenses incurred by the landlord resulting from the tenancy and the end of the tenancy outlining the total claim by the landlord to be \$3,744.92 plus the cost in the amount of \$100.00 for the filing fee for this application ;
- A copy of a propane invoice for a propane fill on December 29, 2009;
- Copies of receipts for supplies and building supplies from local hardware and lumber stores;
- 35 photographs of the condition of the rental unit after the tenants vacated the premises;
- A copy of a tenancy agreement signed by the parties on September 1, 2009;
- A copy of a move in inspection report signed by the male and female tenant;
- Copies of rent cheques drawn on the female tenant's credit union account; and
- An undated notice from the male and female tenant to the landlords advising the landlord that the tenants will be vacating the premises on January 1, 2010 and acknowledging they had caused damage to the drywall and they had ordered replacement doors.

The landlord testified and submitted in documentary evidence that the tenants had not provided one month's notice to end the tenancy prior to December 1, 2009 and the first the landlord heard of the tenant's intent to move out on January 1, 2010 was when the returned from being out of town on January 3, 2010. The tenant did not return any keys to the rental unit.

The photographic evidence submitted shows the damage and condition the rental unit was left in including several large full garbage bags, food left in the fridge and stove, several holes in walls and doors; broken ceiling fans; carpet stains; damage to the fridge door rendering it uncloseable; and damage to the exterior screen door.

Analysis

Section 26 of the *Act* requires a tenant to pay rent when it is due. I find, based on the landlord's testimony and evidence, the tenants failed to pay the rent for December 2009.

Section 45 allows a tenant to end a tenancy by giving the landlord a notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice. Since the notice provided by the tenant is undated and the tenants knew the landlords would be away until January 3, 2010 I find the tenants provided their notice to the tenancy on January 3, 2010.

As a result, I further find the tenants are responsible for the payment of rent for the months of January and February 2010 as the effective date must not be earlier than one month after January 3, 2010 which would make it February 28, 2010.

Section 37 of the *Act* requires tenants who vacate a rental unit to leave the rental unit reasonably clean and undamaged except for wear and tear and give the landlord all the keys back. Based on the photographic and testimonial evidence provided by the landlord including the note from the tenant acknowledging at least some of the damage, I find the landlord is entitled to their full claim for repairs and cleaning.

Conclusion

I find that the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$4,694.92** comprised of \$1,700.00 rent owed for December 2009 and January 2010; \$850.00 lost rent for February 2010; 2,044.92 for cleaning and repairs and the \$100.00 fee paid by the landlord for this application.

This order must be served on the tenants and 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: June 08, 2010.

Dispute Resolution Officer