

DECISION

Dispute Codes MNDC, MNSD, FF, OPR, MNR, O

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issues(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The tenant's application is a request for a monetary order for \$7,106.37, which includes the \$100.00 filing fee paid for the application for dispute resolution

The landlord's application is a request for an Order of Possession, a monetary order for \$1300.00, a request that the tenants bear the \$50.00 cost of the filing fee, and a request that they be allowed to keep the full security deposit of \$650.00 towards this claim.

Background and Evidence

The tenants testified that:

- Shortly after moving their cats into the rental property, both cats were poisoned by rat poison that had been left in the property.
- As a result they had to move out of the rental property and find alternate accommodation.
- They also had to take their two cats for emergency treatment that has resulted in extensive veterinary bills.
- They also both lost work as a result.

The tenants are therefore requesting an order as follows:

veterinary costs	\$4737.15
Emergency storage for three months	\$332.96
Registered mail costs	\$61.26
Return of deposit	\$875.00
Filing fee for dispute resolution hearing	\$100.00
Total	\$7106.37

The landlords testified that:

- They do not deny that the tenant's cats got into some rat poison that was inadvertently left in the rental property and therefore they do not dispute the claim for reasonable veterinary costs as this is covered under their insurance.
- They do not believe however that they should be paying for any storage costs because they offered to temporarily store the tenant's belongings and have the rental property professionally cleaned out, so that it would be a safe place in which to live.
- The tenants declined their offer and chose instead to move, and so they gave the tenants \$1000.00 to assist them with extra costs they would have.
- The tenants also failed to return the keys to the rental unit and did not remove all their belongings right away and as a result the landlords have lost one month's rent in the amount of \$1300.00.

The landlords therefore believe that the tenants should be held liable for the \$1300.00 lost rental revenue, and that they, the landlords, should be allowed to retain the full security deposit of \$650.00 towards that rent, and that the tenants should be paying the difference of \$650.00.

In response to the landlord's testimony the tenant testified that:

- The landlords did offer to store their belongings and have the rental property professionally cleaned out; however they decided not to accept that offer because they believed the rental unit was an unhealthy unit in which to live.
- The \$1000.00 given to them by the landlords was used for alternate accommodation and that is why they have withdrawn that portion of their claim.

Analysis

Tenants application

Veterinary costs

I have reviewed all the evidence presented, it is my finding that the tenants have had actual veterinary costs totalling \$4737.15, and I therefore allow the tenants claim for those veterinary costs, as they were the direct result of the poisoning that occurred in the rental property.

Lost wages

I will not allow the claim for lost wages, because the evidence presented is not sufficient to establish that the tenant actually lost \$1000.00 in wages. The letter from the employer states that the tenant would have earned approximately \$1000.00, however there are not any specifics as to number of hours or shifts that were missed.

Further the landlord has already voluntarily given the tenants \$1000.00 compensation.

Storage costs

I also deny the tenant's application for storage costs, because the tenants have admitted that the landlord offered to have the premises cleaned out so they could live there and they declined that offer. Therefore it was the tenants choice to move and although the landlords accepted that choice is my decision that they are not liable for the tenants storage costs.

Return of deposit

I allow the tenants claim for return of the security deposit; however the tenancy agreement shows that a \$650.00 security deposit was paid, and that a \$200.00 pet deposit was paid.

The landlord has already returned the \$200.00 pet deposit and therefore it is my decision that the landlord must also return the \$650.00 security deposit.

Filing fee

Since I have allowed the majority of the tenants claim, I also order that the landlords bear the \$100.00 cost of the filing fee that the tenants paid for their application for dispute resolution.

Landlord's application

The landlord are requesting an order that the tenants be held liable for one month rent in the amount of \$1300.00, however it is my decision that the tenants are not liable for that rent.

The tenants chose move out of the rental property due to the poisoning of their cats, and at that time the landlords accepted that choice and even gave the tenants \$1000.00 to assist them and therefore it is my finding that the tenants are not liable for any further rent.

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The landlords also argued that the tenants did not return the keys and therefore they lost the rental revenue however I am not convinced that the landlords made themselves available to receive those keys and therefore again I will not allow the claim for lost rental revenue.

The landlord's full claim is therefore denied

Conclusion

I have allowed \$5,487.15 of the tenants claim, and have dismissed the landlord's full claim without leave to reapply.

I have therefore issued an order for the landlords to pay \$5,487.15 to the tenants.

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: October 15, 2010.

Dispute Resolution Officer