

DECISION

Dispute Codes MNDC, MNSD, SS, FF, DRI

Introduction

There is an application by the Landlord for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, to keep all or part of the security deposit, to serve documents or evidence in a different way than required by the Act and recovery of the filing fee.

The Tenant has filed an application for disputing an additional rent increase, for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and the recovery of the filing fee.

Both parties appeared by conference call and gave affirmed testimony.

At the beginning of the hearing it was learned from the Landlord that after some difficulty in serving the Tenant, that a forwarding address was found and that the Landlord would be able to serve documents on the Tenant. The Landlord's application for substitute service was withdrawn.

Issues(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to keep the security deposit?

Does the Tenant have cause to dispute the additional rent increase?

Is the Tenant entitled to a monetary order?

Background and Evidence

This tenancy began on July 1, 2009 as indicated on the signed tenancy agreement and ended on August 30, 2010. The monthly rent was \$825.00 payable on the 1st of each month on a monthly basis. A security deposit of \$400.00 was paid on June 16, 2009.

The Landlord has provided evidence in the form of photographs of the rental unit, a signed tenancy agreement, a condition inspection report signed only by the Landlord, receipts and invoices for work carried out and costs incurred resulting from their claim. The Landlord had replaced keys that the Tenant's witness, M.C., lost and had authorized the Landlord to charge the replacement cost for. The Tenant's witness admits the Landlord's claim that proper notice was not given and that the notice to end the tenancy was dated July 31, 2010 was placed in the Landlord's mailbox, which the Landlord received on August 1, 2010. The Tenant has also conceded the replacement costs for rekeying the rental unit as specified in the Tenant's letter dated August 20, 2010 for \$117.13. The Tenant has also conceded the carpet cleaning costs of \$134.40 and the rental unit cleaning costs for \$280.00.

The Tenant disputes the Landlord's application for compensation for September 2010 rent. The Landlord claims that he had made "less than 6" attempts to re-rent through various methods without success in the month of August when he became aware of the move out notice. The Landlord states that he also made "less than 6" attempts to re-rent through these same methods in September 2010, without success.

The Tenant disputes the costs associated with re-caulking the shower stall base. He claims that the mold was a result of normal wear and tear. The Tenant has entered into evidence a condition inspection report for the move-in which was dated June 25, 2009. I note that on page 2 of the Tenant's copy of the report that a notation by the Tenant was made on July 15, 2009, some 3 weeks after the start of the condition inspection report for the move-in. The Landlord disputes this copy of the condition inspection report and refers to his unsigned copy. The Landlord did not properly have the condition inspection report completed and a copy given to the Tenant. The Landlord contends that the Tenant took the report and never returned a completed copy to him. The Landlord states that he completed a copy of the inspection report without the Tenant. The completed copy of the condition inspection report for the move-in was received in the Tenant's evidence package was the first notice to the Landlord. The Landlord states that he was first advised of the Tenant's forwarding address in writing on November 23, 2010, when he received the Tenant's evidence package.

The Tenant has provided into evidence a letter from the Landlord regarding a rent increase. The Letter is not an official notice of rent increase, but that of a request. The Tenant did not dispute the unofficial request, but paid the amount without dispute. The Tenant has also made a claim for garbage removal of \$50.00 from the Tenant's new residence.

Analysis

Section 45 (1) A tenant may end a periodic 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, and (b) 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 has failed to comply with this section of the Act. I find that insufficient notice was given to the Landlord. The Landlord's application for compensation for \$825.00 for the loss of September 2010 rent is granted. The Landlord has made reasonable attempts to mitigate costs by trying to re-rent during the month of August and September 2010 without success.

The Landlord's claim for costs regarding damages for the \$117.13 for rekeying, \$280.00 for the professional cleaning service, \$134.40 for professional carpet cleaning costs were proven by the Landlord and conceded by the Tenant. The cost of the door jamb strike plate for \$4.11 is also awarded to the Landlord.

The \$89.60, "re-do silicone" invoice is in regards to caulking at the shower stall base. The Tenant disputes that the mold is a normal wear and tear by-product. The condition inspection reports for both parties are in dispute. As both copies of the report are in dispute and without supporting evidence I find that the Landlord has not established a claim for this cost. As such, I dismiss this portion of the claim.

The Landlord has also filed claims for \$50.00 for garbage removal and \$200.00 for painting /repairs to the rental unit. These claims are touched as well by the disputed condition inspection reports. The Landlord has not provided any supporting evidence except for photographs in the Landlord's evidence marked #17-#23. As such, I find

that the Landlord has not established a claim for the garbage costs, but find that he has established a partial claim. I note that the Landlord has asserted a cost of \$200.00, but has not supported this claim with any invoices for labour, paint or hard costs. As such, I award the Landlord \$100.00 for costs incurred.

The Tenant's claim of \$50.00 for an illegal rent increase is dismissed as the Tenant did not file an application for dispute, but consented to the increase by paying the \$50.00 as indicated in the Landlord's proposal. The Tenant's claim for compensation for the \$50.00 garbage removal falls outside the jurisdiction of the Act. The Act can only have jurisdiction to the dispute address. As this is clearly not part of the rental unit, I must dismiss this portion of the Tenant's claim. The Tenant's application is dismissed.

I find that the Landlord has established a claim for \$1,460.64. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$400.00 security deposit in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$1,110.64. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted a monetary order for \$1,110.64.

The Landlord may retain the security deposit.

The Tenant's application is dismissed.

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: November 29, 2010.

Dispute Resolution Officer