



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND, MNR, MNSD, MNDS, FF, SS

Introduction

This hearing was convened in response to an application filed by the landlord seeking orders as follows:

1. A monetary Order for compensation for damage and loss;
2. An Order to be allowed to retain the security deposit;
3. An Order for recovery of the filing fee; and
4. An Order to be allowed to serve documents by way of substituted service.

Total sum sought as set out in the landlord's Application for Dispute Resolution is:
\$1,942.21.

Both parties appeared at the hearing of this matter and gave evidence under oath. As both parties appeared at the hearing of this matter the landlord withdrew her application for substituted service.

Issues(s) to be Decided

Is the landlord entitled to the Orders sought?

Background and Evidence

The landlord testified that this tenancy began in February 2009 and ended sometime in June 2009. The landlord testified that there were two tenants named in the month-to-

month tenancy agreement. Rent was fixed at \$1,100.00 per month and the tenants paid a \$550.00 security deposit on February 10, 2009. The landlord testified that neither of the tenants gave notice to end this tenancy. The landlord realized the tenants had vacated the rental unit when the landlord's agent attended to pick up the rent which had not been paid as due on July 1, 2009. The landlord testified that she then served a 10 day Notice to End Tenancy. The landlord testified that she was able to re-rent the premises as of August 15, 2009. The landlord claims rent for the month of July 2009 because the tenants vacated without giving notice. The landlord also claims loss of rent for the period August 1-15, 2009 during which time the landlord was unable to re-rent the premises. Total sum sought for loss of rent is \$1,650.00.

In addition to the \$1,650.00 in rent and the recovery of the \$50.00 filing fee paid for this application, the landlord testified that she is also claiming the following:

Cleaning Services	\$509.25
Yard Maintenance	135.00
Cupboard Door Hinges	20.00
Towel Rack	27.96
Charges for serving documents on the tenant	100.00
Total	\$792.21

The landlord seeks to retain the \$550.00 security deposit in partial satisfaction of the total sum claimed.

The landlord submits that she faxed all of the receipts and invoices to support the above claims to the Residential Tenancy Branch on November 2, 2010. The landlord testified that she also submitted a CD.

The tenant testified that he believed he was "...room and boarding..." from the other tenant. The tenant testified that he paid his rent to the other tenant not to the landlord. The tenant testified that when he decided to move out he gave his notice to the other tenant. The tenant says he vacated the rental unit himself on June 1, 2009. The tenant

testified that he doesn't believe he is responsible for any of the sums the landlord has claimed. The tenant testified that he has never received any receipts or invoices with respect to the sums claimed by the landlord. The tenant testified that he has no knowledge of the state of the rental unit at the end of the tenancy because he vacated prior to the other tenant. The tenant stated that if cleaning was required \$509.25 seemed like a lot of money for cleaning.

Analysis

The landlord has the burden of proving her claims. The landlord testified that she submitted all of her evidence to the Residential Tenancy Branch via FAX on November 2, 2010. However the only submissions from the landlord before me is a letter from the landlord addressed to the Residential Tenancy Branch dated November 1, 2010 and a copy of a previous Order issued on October 6, 2009. No tenancy agreement, receipts, invoices or a CD are before me. In addition, the tenant says that he has not received any of the landlord's evidence either.

The landlord claims that she has a tenancy agreement naming this tenant as her tenant. The tenant says he believed he was only "room and boarding" from the other tenant. The tenant says his arrangement was with the other tenant on a month-to-month basis. The tenant says he paid his rent to the other tenant and he gave his notice to vacate to the other tenant. The tenant does admit signing some sort of Agreement but he cannot recall what it said.

Without being able to review the tenancy agreement it is impossible to determine what the terms of this tenancy were. The landlord testified that she provided the tenancy agreement in evidence but there is no tenancy agreement before me. Further the tenant says he too has not been served with a copy of the Agreement. In the end the burden of proving that she had a tenancy agreement with this tenant is upon the landlord. I will therefore dismiss the landlord claim for rent from this tenant in the sum of \$1,100.00.

The landlord also claims loss of revenue for the period August 1 to 15, 2009. As set out above, I have been unable to find that there is a tenancy agreement between this landlord and this tenant, further there is no evidence that this tenancy was a fixed term tenancy in which loss of rental income may be awarded. I therefore find that the landlord is not entitled to loss of revenue for August as claimed.

With respect to the balance of the landlord's claims as mentioned above I have not been able to conclude that there was a tenancy agreement between this landlord and this tenant. Even if I was able to do so, the tenant does not admit to the damages claimed and the landlord has failed to provide sufficient evidence to show that there were damages or that there was cleaning or maintenance required and for which this tenant should be responsible. The claims for cleaning, yard-work and repairs are therefore dismissed.

With respect to the claim for \$100.00 for service fees, the only fee reimbursement I have authority to award is the recovery of the filing fee. I therefore dismiss the landlord's claim for the \$100.00 service fee.

With respect to the landlord's claim to recover the security deposit I find that on October 6, 2009 the landlord was granted an Order allowing her to retain the deposit paid with respect to this tenancy. I am therefore unable to re-award that which has already been awarded.

Conclusion

The landlord's claims are dismissed.