



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNR, MNDC, FF

Introduction

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

The hearing was conducted via teleconference and was attended by both landlords and the tenant.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for compensation for damage or loss under the *Residential Tenancy Act* (*Act*), regulation or tenancy agreement and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 45, 67, and 72 of the *Act*.

Background and Evidence

The parties agree that the tenancy began on December 1, 2005 as a month to month tenancy and at the end of the tenancy the rent was \$1008.00 due on the 1st of each month and that no security deposit was paid.

The landlords are claiming for unpaid rent for the month of October 2010 based on the tenant's short notice to end the tenancy; for lost rent as the landlords state they were unable to rent the unit in the condition it was in when the tenancy did end; for compensation for cleaning the rental unit; and for the removal of belongings left behind by the tenant.

The tenant testified that he notified the landlord's verbally, through their son on September 7, 2011, of his intention to end the tenancy; the landlord submitted into evidence a written notice from the tenant to end the tenancy dated September 27, 2010 with an effective date of September 7, 2011.

The landlord contends that rental unit had not been cleaned and submitted photographs and a move out condition inspection report confirming this need. The tenant states that he walked through the unit with the landlord several times and the landlord had told him

it was in good condition and he doesn't understand how the landlord can now say it wasn't cleaned.

The tenant contends the belongings left behind were not his but belonged to his brother in law and were there when he moved in and that the brother in law stored these items there, including motorcycles that he used each summer and stored during the winter. The tenant also contends that because the landlord had a conversation with the brother in law to arrange when the items needed to be removed that it is no longer his responsibility.

Analysis

Section 45 of the *Act* requires a tenant who wants to end their tenancy to provide a notice to their landlord of their intention on a date that is not earlier than one month after the dated the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

In addition a notice given by the tenant under Section 45 must comply with Section 52 that stipulates that the notice must be in writing; be signed and dated by the tenant; give the address of the rental unit; and state the effective date.

As the tenant provided his written notice no earlier than September 27, 2010 the effective date of the end of the tenancy could be no earlier than October 31, 2010. I therefore find the tenant is responsible for the payment of rent for October 2010.

As a result of the tenant and landlord having a tenancy agreement, the tenant enjoyed the exclusive right of possession of the rental unit throughout the period of the tenancy. As such, the tenant had complete control over items left on the premises by third parties and it was his responsibility to remove all of these items prior to the end of the tenancy.

The fact the landlords may have had conversations with the owner's of the items is irrelevant, the tenant is still responsible for their removal. However, as the landlord has only incurred costs at this point for the removal of some items, I can only determine the value for the current loss based on the landlords' testimony to be \$100.00.

I dismiss the portion of the landlords' application for future losses related to the removal of the tenant's and/or tenant's relative's and friend's items from the rental unit, with leave to reapply should the landlords incur additional costs for the removal of those items.

I accept the landlords' photographic, documentary and testimonial evidence as to the condition of the rental unit at the end of the tenancy to be an accurate reflection of that condition. I find the costs associated with cleaning the rental unit to be reasonable and the responsibility of the tenant in the amount of \$200.00.

I also find that as a result of the tenant's noncooperation dealing with matters related to the ending of this tenancy that his actions prolonged the landlords' inability to prepare the rental unit to be re-rented by November 1, 2010 and as such is responsible for lost rent for the month of November 2010.

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 **\$2,366.00** comprised of \$2016.00 rent owed; \$200.00 cleaning; \$100.00 removal of tenant possessions; and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenant 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: February 03, 2011.

Residential Tenancy Branch