



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD, MNDC, FF, SS

Introduction

This hearing was convened in response to joint applications filed by the tenants and the landlord.

The tenants seek:

1. Recovery of the security deposit;
2. Recovery of the filing fee; and
3. An order to be allowed to serve documents by substituted service.

The tenants seek \$412.00 plus recover of the filing fee.

The landlord seeks:

1. A monetary order for compensation for damage or loss; and
2. An order to be allowed to retain the security deposit; and
3. Recovery of the filing fee.

The landlord seeks \$504.56 plus recover of the filing fee.

Issue(s) to be Decided

Is either party entitled to the Orders sought?

Background and Evidence

The tenant submitted that she did serve the landlord with the application and no longer required an order for substituted service. The tenant testified that she supplied her forwarding address by way of a notarized letter that she sent to the landlord. The tenant says she no longer has a copy of the letter and has no specific information as to the date upon which she sent the letter to the landlord.

The landlord says she has never received the letter containing a forwarding address but she did receive a letter providing notice of the tenant's intention to vacate the rental unit. The landlord submitted that letter into evidence and it is dated June 9, 2010 advising the landlord that the tenants intended to vacate the rental unit on June 30, 2010. The letter, while not notarized, is witnessed by a legal secretary.

The landlord submitted the move-in inspection report but it is not completed as to move-out. The landlord testified that she offered a number of opportunities for inspection and the tenant did not attend to complete a move-out inspection. The landlord testified that after the tenants vacated they discovered a number of things in need of repair and/or clearing. The landlord submitted a letter from the current tenants setting out the damages they discovered and noting that the landlord came to repair all the problems and perform the cleaning. The landlord has claimed \$504.56 in total with \$171.26 of that sum being an electrical bill a copy of which was provided. The landlord says this is the tenant's responsibility and the tenant agreed.

Analysis

With respect to the tenant's provision of the forwarding address, I find that the letter she says she sent to provide the forwarding address does not contain a forwarding address. I therefore find that the landlord has not had notice of the tenant's forwarding address in order to return the deposit. I also accept the landlord's evidence that she made several attempts to set up a time with the tenant to complete a move-out inspection to which the tenant did not respond or agree to attend. I find that the landlord has fulfilled her duty under the Act and is therefore entitled to claim the security deposit. However, the landlord did not complete the move-out inspection report to document the condition of the rental unit at the end of this tenancy. Further, the damage and cleaning she now wishes to claim against this tenant were not noticed until sometime after the next tenants moved into this rental unit. I am therefore not satisfied that this tenant is responsible for the damages/cleaning. I will therefore only allow the cost of the electrical bill as agreed in the sum of \$171.26. I direct that the landlord deduct that sum from the \$400.00 deposit paid in this matter on February 20, 2010 and return the balance that is \$228.74. I make no provision for interest on the security deposit as no interest was payable for the period during which the landlord held the deposit.

As both parties have claimed recovery of the filing fee and both have had some success in their applications, I will award the fee to neither party.

Conclusion

The tenant is provided with an Order in the above terms and the landlord must be served with a copy of this Order as soon as possible. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.
