



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Landlord: OPR, MND, MNR, MNSD, MNDC, FF
Tenants: CNR, FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlord sought an order of possession and a monetary order. The tenants sought to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the landlord's agent only. The tenants did not attend.

As this hearing dealt with cross applications, I am satisfied the tenants were aware of the time and call in procedures to access this hearing. I further find the tenant was served with the landlord's evidence in accordance with the *Residential Tenancy Act (Act)* based on the landlord's submission of Canada Post tracking printouts.

The landlord's agent testified the tenants moved out of the rental unit prior to the end of July 2011. As such there is no longer a need for an order of possession and I amend the landlord's Application to exclude matters related to an order of possession.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for lost income; for damage to the rental unit for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

It must also be decided are if the tenants are entitled to cancel a 10 Notice to End Tenancy for Unpaid Rent and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted a copy of a tenancy agreement signed by the parties for a 1 year fixed term tenancy beginning on April 15, 2011 for a monthly rent of \$2,250.00 due on the 1st of each month and a security deposit of \$1,125.00 was paid on March 30, 2011.

The landlord submits the tenants failed to pay rent for the ½ month of April 2011 and for the full months of June and July 2011. Further the landlord's agent testified the landlord has not been able to rent the unit out to new tenants.

The landlord is also claiming for damage to the rental unit that requires blinds; carpet cleaning; and painting. The landlord has provided no evidence in regard to these matters.

Analysis

In the absence of the tenants and based on the testimony of the landlord's agent that the tenants have vacated the rental unit, I dismiss the tenants Application in its entirety without leave to reapply.

I accept the landlord's testimony and evidence that the tenant has failed to pay rent for as outlined above and find the landlord is entitled to payment from the tenant for these months.

As to the landlord's claim for lost income for the month of August, 2011, I find that as the hearing was conducted on the 2nd day of the rental period the landlord's application is premature as he still may be able to rent the unit out to mitigate some loss for the month of August 2011 and I therefore dismiss this portion of the landlord's Application with leave to reapply after the rental unit is re-rented.

And finally in regard to the landlord's claim for blinds; carpet cleaning and painting, I find this portion of the landlord's claim is also premature as the landlord has not completed all the move out requirements relating to the tenants vacating the rental unit. I dismiss this portion of the landlord's claim with leave to reapply.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$5,725.00** comprised of \$5,625.00 rent owed and the \$100.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$1,125.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$4,600.00**. This order must be served on the tenants. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: August 02, 2011.

Residential Tenancy Branch