



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNSD, FF

Introduction

This conference call hearing was convened in response to the landlord's application for a monetary order for unpaid rent and damage to the unit; to keep the security deposit; and to recover the filing fee associated with this application.

The landlord participated in the hearing and provided affirmed testimony. He testified that he served the Notice of a Dispute Resolution Hearing to the tenant by way of registered mail sent on September 8th, 2011, and provided a Canada Post tracking number. The tenant did not participate and the hearing proceeded in the tenant's absence.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to keep all or part of the security deposit?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of a basement suite. Pursuant to a written agreement, the month to month tenancy started on January 1st, 2009. The rent was \$750.00 per month and the tenant paid a security deposit of \$365.00.

The landlord testified that on August 13th, 2011, the tenant gave him written notice to end tenancy effective September 13th, 2011, that the tenant indicated that he would clean the suite, and that the tenant left on September 1st, 2011. In that same notice, the landlord stated that the tenant also gave him permission to keep the security deposit to cover half a month's rent for September.

In his documentary evidence, the landlord provided 6 photographs showing a dirty floor under the fridge, the stove, the toilet and inside a closet, and several holes in the walls from hanging either large pictures or other heavy decor. The landlord also provided an ad posted in a local newspaper in August to rent the suite effective September 1st, 2011, however the landlord said that the suite was too dirty and a prospective tenant declined to move in. The landlord said that he called the tenant concerning the dirty condition of the suite, and that the tenant came back on September 1st to vacuum for 10 minutes and then left. The landlord said that he spent an additional 3 days to clean properly, sanitize, and repair the holes in the walls, and that the suite was re-rented for October 2011.

The landlord is claiming the loss of rental income for September (\$750.00), and 12 hours of cleaning at \$20.00 per hour (\$240.00) for a claim totalling \$990.00.

Analysis

I accept the landlord's undisputed testimony that he served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 45(1) of the Act states in part that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord received the notice, and 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. In this case the tenancy was based on the first of the month and the tenant gave notice on August 13th, 2011; therefore the earliest date to end the tenancy was September 1st, 2011. The landlord was not able to re-rent the suite in September in spite having advertised immediately after receiving the tenant's notice to end the tenancy. Accordingly I find that the landlord is entitled to recover the loss of that month's rent.

Based on the landlord's undisputed testimony, I accept that the tenant did not leave the unit in a reasonably clean condition in accordance with the Act. I find that the landlord is entitled to recover his expenses for cleaning and repairs that should have been completed by the tenant.

Conclusion

The landlord established a claim of \$990.00. I authorize the landlord to retain the tenant's \$365.00 security deposit for a balance owing of \$625.00. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 67 of the Act, I grant the landlord a Monetary Order totalling \$675.00. This Order may be registered in the Small Claims Court 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: November 23, 2011.

Residential Tenancy Branch