



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MND, MNDC, FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties.

The Tenants applied for return of double the security deposit and to recover the filing fee for the Application.

The Landlords claimed for compensation for damage to the rental unit, for compensation under the Act or tenancy agreement, to keep all or part of the security deposit, and to recover the filing fee for the Application.

One of the Landlords appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlords served the Tenants with their Application and Notice of Hearing by registered mail, sent on November 12, 2011. Under the Act, the Tenants are deemed served five days later. Despite this, the Tenants did not appear at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matter

This matter was set for hearing by telephone conference call at 9:00 a.m. on this date.

The line remained open for 20 minutes while the Landlord made her claims. The Landlord was the only participant who called into the hearing during this time. Therefore, as the Tenants did not attend the hearing and the Landlords appeared and proceeded with their claims, I dismiss the Application of the Tenants without leave to reapply.

Issue(s) to be Decided

Are the Landlords entitled to the monetary claims sought?

Background and Evidence

According to the testimony of the appearing Landlord, this tenancy began in June or July of 2010, there was no written tenancy agreement, and no written incoming or outgoing condition inspection reports were performed. The Tenants paid the Landlords a security deposit of \$550.00 at the start of the tenancy and the monthly rent was \$1,100.00.

The Landlord testified that on August 7, 2011, the Tenants gave her verbal notice they were ending the tenancy effective on August 31, 2011. The Tenants vacated the rental unit on or about August 27, 2011.

The Landlords claim the following damages in the rental unit were caused by the Tenants: there were a large number of anchor holes left in the walls, the bedroom blinds were damaged, there were unauthorized shelves installed, the kitchen island drawers were damaged as well as the tracks for the drawers, there were food stains on the ceiling, multiple stains and marks on the walls of every room, nail polish stains on the laminate floor, the refrigerator was dirty, the stove was not cleaned and the tile floors were not swept or mopped.

The appearing Landlord testified they took pictures of the condition of the rental unit before it was cleaned and repaired. They entered these in evidence.

On September 1, 2011, the Landlords had a cleaning lady come in and the work cost the Landlords \$120.00.

The Landlords allege that on September 2, 2011, the Tenants kicked in the entry door to the rental unit to gain access. The Landlord testified that one of the Tenants informed her they did this in order to take pictures inside the rental unit. The Tenants entered photographs as evidence in their Application, which indicate a clean rental unit.

The Landlords are claiming \$465.92 to replace the door. The Landlords are also claiming \$1,055.00 for the cost of installing the door, and repairing all the drywall, the bedroom blinds, the unauthorized shelves, the kitchen island drawers and tracks. This also includes the costs of painting.

The Landlords further claim for materials and supplies of \$123.83, and have provided receipts for these.

The Landlords claim for a loss of rent for two months. They were unable to rent the suite until November 1, 2011, following the departure of the Tenants. The Landlords claim \$2,200.00 for two months lost rent.

The Landlords also allege that the male Tenant forged a letter from the female Tenant. The Landlords have entered in evidence a copy of a letter ostensibly from the female Tenant attesting to this.

The Landlords claim that the male Tenant had a volatile temper and when he became violent the police had to attend the rental unit. The appearing Landlord alleged on one occasion the female Tenant had to be taken away in an ambulance.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the Tenants have breached section 37 of the Act by failing to return the rental unit to the Landlords in a clean and undamaged state. I further find the Tenants breached section 45 of the Act by failing to give the Landlords the required Notice to End Tenancy.

I find that the Tenants left anchor holes in the walls, damaged the bedroom blinds installed unauthorized shelves, damaged the drawers and tracks, left food stains on the ceiling, left multiple stains and marks on the walls of every room, left nail polish stains on the laminate floor, did not clean the refrigerator or stove and did not sweep or mop the floors. I also accept the evidence of the Landlords that the Tenants left the door to the rental unit damaged. I find they must pay the Landlords for the costs of cleaning and repairs.

Furthermore, the Tenants did not provide the Landlords with the proper Notice to End Tenancy. Under the Act, they were required to give the Landlords one month of Notice calculated from the date rent is due. For example, if the Tenants gave their notice in August, they would not have been able to vacate the rental unit until the end of September. I find they must pay the Landlords for one month of lost rent due to their improper notice.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find the breaches by the Tenants have caused the Landlords to suffer a loss.

I find that the Landlords have established a total monetary claim of **\$2,914.75** comprised of the above described amounts and the \$50.00 fee paid for this application.

Although the Landlords have been successful in their claims, under section 38 of the Act they were required to either return or claim against the security deposit within 15 days of the end of the tenancy or receipt of the forwarding address of the Tenants. I find that the Landlords failed to do this and pursuant to section 38 of the Act, I must order them to return double the security deposit to the Tenants, in the amount of \$1,100.00, subject to the offset below.

Under section 72 of the Act I order that the amount of the security deposit be offset against the amounts awarded to the Landlords.

The Landlords may retain security deposit of **\$1,100.00** in partial satisfaction of the claim and I grant the Landlords an order under section 67 for the balance due of **\$1,814.75**. This order must be served on the Tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: December 09, 2011.

Residential Tenancy Branch