



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Preliminary Issue

The parties agreed that tenants have vacated the rental unit an order of possession is no longer required.

The landlord application for dispute resolution is claiming for damages to the rental unit, it does not provide any details of damage and no detailed calculation was provided.

Section 59 (2) of the Act states an application for dispute resolution must include full particulars of the dispute that is to be the subject of the dispute resolution proceedings. Therefore, only the issue of rent for June 2012 and compensation for July rent, 2012 proceeded at today's hearing. The landlords are at liberty to reapply for damages to the rental unit.

Issue(s) to be Decided

Are the landlords entitled to a monetary order for unpaid rent?
Are the landlords entitled to compensation for loss of revenue?
Are the landlords entitled to retain the security deposit?

Background and Evidence

The tenancy began on May 15, 2006. Current rent in the amount of \$1,950.41 was payable on the first of each month. A security deposit of \$900.00 was paid by the tenants.

The landlord testified the tenants did not pay all rent owed for June 2012. The landlord stated the tenants paid \$1,050.41. The landlord seeks to recover \$900.00 in unpaid rent.

The landlord testified the tenants did not provide proper notice to end tenancy as they received written notice on May 31, 2012, to end tenancy on June 30, 2012.

The tenants testified that the landlord had extinguished their rights to claim against the security deposit for damages. So they withheld \$900.00 from June 2012, rent.

The tenants testified on May 31, 2012, they provided the landlords with written notice to end tenancy for June 30, 2012.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Section 26 of the Act states:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Section 17 of the policy guidelines states:

A tenant may not apply all or part of the security deposit to rent without the written consent of the landlord.

The evidence of the tenant was they deducted their security deposit from June 2012, rent. The tenants did not have the right under the Act to deduct any amount from the rent and the tenants did not have the written consent of the landlord to apply the security deposit to rent. I find the tenants are in breach of the Act and the landlords suffered a loss. Therefore, the landlords are entitled to compensation for unpaid rent in the amount of **\$900.00**.

Section 45 of the Act states:

45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that
(a) is not earlier than one month after the date the landlord receives the notice, and
(b) 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.

The evidence of the parties was on May 31, 2012, the tenants provided written notice to end tenancy on June 30, 2012. I find the tenants did provide proper notice to end tenancy as required by the Act. Therefore, the landlords are not entitled to

compensation for loss of revenue for July 2012, and as a result the landlords' claim for compensation is dismissed.

I find that the landlords have established a total monetary claim of \$950.00 comprised of the above described amount, this amount also includes \$50.00, which is a portion of the filing fee paid by the landlords as they were only partially success with their application.

I order that the landlords retain the deposit and interest of \$930.17 in partial satisfaction of the claim and I grant the landlords an order under section 67 for the balance due of **\$19.83**.

Conclusion

The landlords are granted a monetary and may keep the security deposit in partial satisfaction of the claim and I grant the landlords a monetary order for the balance due.

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: July 04, 2012.

Residential Tenancy Branch