



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNR, FF

Introduction

This was a cross-application hearing.

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord requested compensation for unpaid rent, return of moving costs and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The tenants applied requesting compensation for damage or loss under the Act and to recover the filing fee costs.

Both parties were present at the hearing and confirmed receipt of the Notice of hearing package from the other and written evidence submissions.

At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Preliminary Matters

At the start of the hearing the landlord's claim for payment of the deposit was dismissed as the tenancy has not continued and payment cannot be Ordered.

Issue(s) to be Decided

Are the tenants entitled to compensation for damage or loss under the Act in the sum of \$962.00?

Is the landlord entitled to compensation for unpaid rent in the sum of 3,900.00?

Is either party entitled to filing fee costs?

Background and Evidence

The tenant has made the following claim for compensation:

Moving costs – into rental unit	336.00
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Canada Post mail change	50.00
Movers	400.00
Mail change – after leaving rental unit	50.00
TOTAL	962.00

The landlord has claimed compensation for loss of rent for July, August and September, 2012; plus moving costs in the sum of \$336.00.

During the hearing the parties agreed to a number of facts, as follows:

- On June 20, 2012 a month-to-month tenancy agreement was signed and the keys were given to the tenant;
- The tenancy was to commence on July 1, 2012;
- Rent was \$1,300.00 per month, due on the first day of each month;
- A deposit in the sum of \$650.00 was to be paid;
- That on June 20, 2012, the tenant gave the landlord 2 posted dated cheques for July rent owed and the deposit payment; and
- That the landlord agreed the tenant could commence moving belongings into the unit before July 1, 2012.

After signing the tenancy agreement the tenant immediately began to move items into the home. On June, 21 the tenant had movers bring in heavy items, in the presence of the landlord.

On June 21, 2012 the landlord contacted the tenant to discuss the cheques that had been issued; the tenant told the landlord that she could not cash them until July 1, 2012, as they were post-dated. The next day the tenant and landlord met to discuss the cheques; the landlord wanted the tenant to issue new cheques.

On June 23, 2012, the tenant went to the home and found the locks had been changed and that she could no longer gain entry. The tenant called the police, who attended at the property. After confirming that the tenant's belongings were in the rental unit the police had a locksmith come to the house. The landlord arrived at the property at the same time as the locksmith and at this point the landlord chose to allow the tenant into the rental unit. The landlord stated that she now understands that changing the locks was not appropriate; although the landlord had not expected the tenant to move her belongings in so quickly.

During the hearing the tenant and landlord confirmed that they then reached a verbal agreement that the tenancy would not continue. The landlord agreed to pay for movers and on June 24, 2012 the tenant's belongings were moved out of the rental unit, at the landlord's cost. The landlord has now claimed the cost for movers.

The tenant agreed to vacate the rental unit as she was upset by the actions of the landlord and felt that the tenancy was not likely to proceed in a positive manner.

The tenant has claimed the cost of moving into the unit, retaining items in her storage locker, moving from the storage locker and mail change costs that were incurred. The tenant submitted copies of:

- A copy of a \$50.40 Canada Post receipt for mail change effective June 28, 2012; and

- a June 21, 2012 invoice for movers in the sum off \$336.00

Analysis

I find, based on the written tenancy agreement signed on June 20, 2012; supplied as evidence, that the parties entered into a contract. The tenancy was to commence on July 1, 2012, and by the landlord's written submission, she had allowed the tenant to move items into the home prior to the tenancy start date; although the date of agreed access was in dispute.

The landlord had originally agreed to accept post-dated cheques for the July rent and the security deposit, but then attempted to process the cheques and, when unsuccessful, requested new cheques. The landlord acknowledged that she became concerned as the tenant moved more items into the home than she had originally agreed could be moved before July 1, 2012.

I find that effective June 23, 2012 the parties had reached a mutual agreement to end the tenancy. During the hearing this agreement was confirmed by each of the parties. While the tenant obviously felt upset by the actions of the landlord, there was no basis for the tenancy to end, as provided by the Act, other than by mutual agreement. If the tenancy had continued, which it could have, both parties would have been at liberty to utilize the dispute resolution process if the requirements of the Residential Tenancy Act were not met.

I find that as a result of the mutual agreement to end the tenancy and the landlord's voluntary payment of the cost to move the tenant's belongings out of the rental unit, that neither party is indebted to the other and that both claims for compensation are dismissed.

Conclusion

Both claims are dismissed.

This decision is final and binding on the parties, unless 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: September 13, 2012.

Residential Tenancy Branch