



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Landlord: OPR, MNR, MND, MNDC, FF

Tenants: CNR, MNSD, MNDC

Introduction

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

The hearing was conducted via teleconference and was attended by the landlord and both tenants.

At the outset of the hearing the parties agreed that the landlord changed the locks on the rental unit on January 23, 2013 and placed the remaining tenants' belongings in the carport. A time was arranged and the tenants picked up their belongings.

As a result, there is no longer a need to adjudicate the portion of the landlord's Application for an order of possession or the portion of the tenants' Application seeking to cancel the notice to end tenancy. I amend both Applications to exclude the matter of possession.

In relation to the landlord's claim for damage to the rental unit and the tenants claim for return of the security deposit I found these items to be premature as a result of these recent events. Therefore, I dismiss the portion of the landlord's Application for compensation for damage to the rental unit and the portion of the tenants' Application for return of the security deposit, both with leave to reapply.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for compensation for damage or loss and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agree the tenancy began on November 1, 2012 for a monthly rent of \$1,000.00 due on the 31st of each month. While both parties acknowledge that the tenancy had been originally for a fixed term no tenancy agreement was signed by the parties.

The parties acknowledge that the original fixed term was 1 year but the tenants were trying to negotiate with the landlord a shorter term.

The landlord submits that the tenants failed to pay the full rent for the month of November (\$20.00) and December (\$110.00) 2012. The landlord seeks a total of \$130.00 in unpaid rent.

The tenants submit that the landlord had agreed to allow the tenants to reduce the November rent by \$20.00 as payment for gas when the tenant provide a ride to the landlord from the community where the rental unit is located and the landlord's home community.

The parties agree the landlord had agreed to allow the tenants to reduce December 2012 rent by \$110.00 as compensation for the purchase of window coverings for the rental unit on the condition that the tenants provide the landlord with original receipts.

The landlord submits that the tenants never did provide original receipts but rather sent them by email. The landlord also submits that when the tenant handed her the receipts in January they were marked as returned. The tenants testified that the window coverings had not been returned and they were in the rental unit the last time they had access to the unit. The landlord disputes these statements.

The landlord seeks compensation in the amount of \$1,560.00 for costs associated with 8 trips from her home community to the rental unit community to try and get the receipts from the tenants. The landlord includes in this claim compensation for gas, food, and lodging, as well as courier costs for the delivery of tenancy agreements etc. The landlord has provided no documentary evidence to support these claims.

The landlord also seeks compensation in the amount of \$450.00 for additional charges she incurred when installing new countertops in the rental unit. The landlord submits that the tenant had blocked access to the rental unit through the carport when her contractors were there to install the countertop.

The landlord has provided a type written statement that is accredited to her contractor outlining the details of the events that prevented him from completing the work. The tenants submit that they did nothing to interfere with the contractor.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

In relation to the landlord's claim for unpaid rent, in the absence of agreement in the hearing on the issue of November 2012 rent I accept the tenants paid the landlord the rent less \$20.00. However, as the landlord disputes the tenants' assertion that they had an agreement it is incumbent upon the tenant to provide additional evidence to support this claim.

As the tenants have no corroborating evidence I find the landlord is entitled to \$20.00 for rent for November 2012. In relation to the landlord's claim for \$110.00 for December 2012 rent I accept the parties had an agreement that the tenants could deduct \$110.00 for the purchase of window coverings and that they were required to provide original receipts.

I accept that the tenants provided receipts via email. However, as the tenants dispute the landlord's assertion that the window coverings were returned, I find the landlord has failed to provide sufficient evidence that the currents were returned. I find the landlord has failed to establish the tenants owe any rent for December 2012. I dismiss this portion of the landlord's Application.

As to the landlord' claim for costs associated with several trips from her home community to the community where the rental unit is located and courier costs, I find these are costs associated with doing business as a landlord when your residential property is located in a community other than home community and not the responsibility of the tenants. I dismiss this portion of the landlord's Application.

Finally in relation to the landlord's claim for compensation for the additional costs she states she faced as a result of the tenants blocking access to her contractor. As the tenant's dispute the landlord's position on this issue the landlord has the burden of provide additional evidence or testimony to corroborate her claim.

As noted above, the landlord has submitted a type written document attributed to her contractor it is neither signed nor affirmed as an affidavit and in the absence of the contractor to provide testimony and confirmation of his statements I find this document to be insufficient evidence to support the landlord's claim. I dismiss this portion of the landlord's claim.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$20.00** comprised of rent owed. As the landlord was largely unsuccessful in her Application I dismiss her claim to recover the \$50.00 fee paid for this application.

This order must be served on the tenants. If the tenants fail 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: February 01, 2013

Residential Tenancy Branch