



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF, O

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for a monetary order for unpaid rent or utilities, for an order permitting the landlord to keep all or part of the pet damage deposit or security deposit, and to recover the filing fee from the tenant for the cost of this application.

An agent for the landlord company attended the conference call hearing and called one witness. The landlord's agent and the witness gave affirmed testimony and the landlord provided evidentiary material in advance of the hearing. However, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on October 9, 2012, the tenant did not attend. The landlord provided evidence of having served the tenant on that date and in that manner, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

All evidence and testimony provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Has the landlord established a monetary claim as against the tenant for unpaid rent or utilities?

Is the landlord entitled to keep all or part of the pet damage deposit or security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord's agent testified that this fixed term tenancy began on March 11, 2011 and expired after one year, and ultimately ended on September 1, 2012. Rent in the amount of \$1,165.00 per month was payable on the 1st day of each month, and was increased to \$1,215.00 per month after the first year of the tenancy. On February 26, 2011 the landlord collected a security deposit from the tenant in the amount of \$583.00 which is still held in trust by the landlord. A written tenancy agreement was prepared between

the landlord company and signed by an agent on February 27, 2011 and 2 tenants on February 26, 2011, which was provided for this hearing.

The landlord's agent testified that one of the tenants moved out of the rental unit but the landlord did not know when. The remaining tenant acquired another room-mate and on July 1, 2012 the landlord company, the remaining tenant and the room-mate all signed a new tenancy agreement, and a copy of that agreement was also provided for this hearing. The amount of rent reflected on that tenancy agreement is the amount of rent payable after the increase.

The landlord's agent further testified that the tenant had called the landlord on August 1, 2012 stating that the tenant had work at another geographic location and would be moving out of the rental unit at the end of August, 2012. The phone call was followed by a letter to the landlord stating that the tenant would be vacating the rental unit at the end of August, 2012, which the landlord's agent received on August 2, 2012.

The parties completed a move-in condition inspection report which was provided for this hearing. It is signed by the tenant at move-in, and by the tenant's room-mate at move-out. The reports are dated March 11, 2011 and September 1, 2012 respectively. The tenant left the blinds greasy and dusty at the end of the tenancy, but otherwise the rental unit was left reasonably clean and undamaged. The landlord provided a receipt for blind cleaning in the amount of \$55.00.

The landlord claims one month of rent in the amount of \$1,215.00 as well as \$55.00 for blind cleaning and recovery of the \$50.00 filing fee for the cost of the application, and asks for an order permitting the landlord to keep the security deposit in partial satisfaction of the claim.

The landlord's witness testified to being an employee of the landlord company, and that the tenant had called the landlord on August 1, 2012 at 9:42 p.m. stating that the tenant would be moving out at the end of August, 2012. Rent for the month of August, 2012 was collected from the tenant, which the landlord's witness located in the rent mail box where rent was usually paid and collected. There was no notice to end the tenancy in the rent mail box on August 1, 2012.

The witness further testified that the tenant vacated the rental unit prior to the end of August, 2012 but the notice to end tenancy given by the tenant is dated July 31, 2012, but was not received until August 2, 2012.

The witness also testified that an advertisement for rental accommodation in the rental complex runs continually on Craigslist, a free on-line advertising website, and a sign remains on the outside of the building for rentals.

The witness also testified that the tenant's room-mate remained in the rental unit to complete cleaning, but did not clean the blinds in the rental unit. The blinds were consequently left dusty and greasy by the tenant and required cleaning before the rental unit could be re-rented. The rental unit was re-rented for October 1, 2012.

The tenant left another letter in the landlord's mail box which was dated September 28, 2012 and requested return of the security deposit. The tenant's forwarding address was contained in that letter.

Analysis

Firstly, with respect to the claim for unpaid rent, the *Residential Tenancy Act* requires a tenant to give one month's notice to end a tenancy in writing the day before the day rent is payable under the tenancy agreement. If the tenant fails to do so, the landlord is entitled to recover that loss of revenue. However, the *Act* also requires any person who makes a claim against another to do whatever is reasonable to mitigate any loss suffered as a result of the opposing party's failure to comply with the *Act* or the tenancy agreement. In this case, the tenancy agreement specifies that rent is payable on the 1st day of each month. The landlord has applied for a monetary order for one month as a result of the tenant's failure to give the notice to end tenancy prior to the date that rent is payable under the tenancy agreement. The landlord has also provided testimony that an advertisement runs continuously on Craigslist and a sign remains on the property which advertises rental units for rent, but has provided no evidence of either advertisement. The landlord was aware on August 2, 2012 that the tenant would be moving out of the rental unit at the end of August, but I have no evidence other than the testimony of the landlord's witness that advertisements run continuously on Craigslist and that a sign is continually erected on the property.

With respect to the landlord's claim for cleaning blinds, I have reviewed the move-in and move-out condition inspection reports, as well as the copy of the receipt provided by the landlord, and I am satisfied that the landlord has suffered a loss in the amount of \$55.00 for the tenant's failure to clean the blinds.

Since the landlord has been partially successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee for the cost of the application.

I hereby order the landlord to keep \$105.00 of the security deposit and return the balance to the tenant at the forwarding address provided to the landlord.

Conclusion

For the reasons set out above, I hereby order the landlord to keep \$105.00 of the \$583.00 security deposit and to return the balance to the tenant.

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: January 09, 2013.

Residential Tenancy Branch

