



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNDC, MNSD, FF

Introduction

This is an application filed by the Landlord for a monetary order for damage to the unit, site or property, for unpaid rent or utilities, for money owed or compensation for damage or loss, to keep all or part of the security deposit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the submitted documentary evidence of the other party, I am satisfied that both parties have been properly served.

During the hearing the Landlord withdrew his claim for damage to a door. As such, no further action is required for this portion of the claim.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security deposit?

Background, Evidence and Analysis

This Tenancy began on July 1, 2012 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$600.00 payable by the last day of each month and a security deposit of \$300.00 was paid.

The Landlord seeks a monetary claim of \$1,212.12. The Landlord seeks the recovery of \$270.00 (\$90.00 X 3 months) for unpaid utilities, \$96.52 for postal box costs, \$235.00 for garden restoration costs, \$369.60 for security costs, \$210.00 for cleaning costs and \$20.00 for labour to remove hay.

The Landlord states that the Tenant has failed to pay the monthly utilities for the period September, October and November for \$270.00 (@ \$90.00 each). The Tenant has

confirmed this stating that the Landlord occupied the property when the utilities were to be divided between two tenants for usage instead of three parties including the Landlord. The Landlord refers to the Tenancy Agreement that states that the Tenant agreed to a \$90.00 per month for combined utilities. The Landlord states that if the utilities were divided for two that the monthly amount would be higher and that the utilities were on a equal payment plan and that the Landlord has payed an amount in excess of the \$90.00 per month for the extra usage.

I find on a balance of probabilities that I prefer the evidence of the Landlord over that of the Tenant. The Tenant has confirmed that no utilities were paid for this period and that the signed tenancy agreement was for \$90.00 per month. The Landlord has established a monetary claim for \$270.00 for utilities.

The Landlord seeks \$96.52 for Postal Box rental costs. Both parties have agreed that the Landlord allowed the Tenant the use of his postal box while she was a rental Tenant. The Landlord states that he did not like having the Tenant's child collect the mail as they have witnessed that some mail falls on ground on the child's return trip to the rental. The Tenant disputes this claim.

I find that the Tenant was given the right to use the postal box while a tenant of the rental unit by the Landlord. The Landlord's claim for postal box costs are dismissed as the Landlord's claim is not based upon any negligence, but a preference to keep the mail separate.

The Landlord seeks \$235.00 for garden restoration costs of roto-tilling. Both parties agreed that the Tenant was given permission to roto-till and make a garden by the Landlord. The Landlord's claim for compensation to restore the garden area was not a condition or understanding that the area was to be restored at the end of the tenancy. This portion of the claim is dismissed.

The Landlord seeks \$369.60 for security. The Landlord states that the Tenant agreed to routinely check the windows and doors of the upstairs rental and the outbuildings to maintain security. The Landlord states that he had to make 22 trips at approximately \$16.60 for gas costs to check the property as the Tenant refused. The Tenant disputes this claim stating that the checks of the upstairs tenant did not want these checks as she states that it was an invasion of her privacy. The Landlord confirms that the Tenant spoke to him about this and that he took over the duties himself.

I find that the Landlord has failed to establish a claim for this portion of the application for security costs. The Landlord has failed to provide any invoices\details of the costs

being claimed. I find that this addendum to the tenancy agreement is unenforceable as it would require the Tenant to act as an employee of the Landlord to perform security. The “checking” was brought up with the Landlord as the upstairs Tenant stated that this is an invasion of privacy. This portion of the claim is dismissed.

The Landlord's claim for \$210.00 of cleaning for approximately 10 ½ hours of labour is disputed by the Tenant. Neither party has submitted any evidence of the state of the tenancy for the beginning or the end. The Landlord has failed to satisfy me by providing any supporting evidence. I find on a balance of probabilities that the Landlord has failed to establish this portion of the claim and is dismissed.

As for the Landlord's claim for \$20.00 for labour to clean up leftover bales of hay, the Tenant has conceded in her direct testimony that she did not have time or was strong enough to properly dispose of it. On this basis, I find that the Landlord has established a claim for \$20.00.

The Landlord has established total monetary claim of \$290.00, consisting of the unpaid utilities and the labour for hay removal. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$300.00 security deposit in partial satisfaction of this claim and I grant a monetary order for the balance due of \$40.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted a monetary order for \$40.00.
The Landlord may retain the security deposit.

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: March 12, 2013

Residential Tenancy Branch

