



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, a monetary order of unpaid rent 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 at the hearing.

The parties confirmed that neither party has submitted any documentary evidence in support of their position.

I refer only to the relevant facts and issues in this decision.

Preliminary Issue

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. In this case, the landlord is seeking the cost of utilities. However, the landlord has not filed any detail of money owed for utilities and has not provided to the tenant or the Residential Tenancy Branch any copies of these invoices. Therefore, only the issues listed in the details of dispute proceeded at the hearing. The landlord is at liberty to apply for money owed for utilities.

At the outset of the hearing the parties agreed the tenant vacated the unit on or about April 20, 2013. Therefore, an order of possession is no longer required.

Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to keep all or part of the security deposit?

Background and Evidence

The parties agreed the tenancy began approximately three years ago. The parties agreed on May 1, 2012, the landlord agreed to reduce the tenant's rent and the current rent of \$950.00 was payable on the first of each month. The tenant paid a security deposit of \$500.00.

The tenant acknowledged he was served with a ten day notice to end tenancy for failure to pay rent for April 2013. The tenant further agreed that rent for April 2013, in the amount of \$950.00 is owing to the landlord..

The landlord stated due to the tenant breaching the tenancy agreement, and due to the condition the tenant left the rental unit he was unable to rent the unit for May 1, 2013. The landlord seeks to recover loss of rent for May 2013.

Analysis

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

I find that the tenant has failed to pay rent under the Act and tenancy agreement. Therefore, I find the landlord is entitled to recover unpaid rent for April 2013, in the amount of **\$950.00**.

As a result of the tenant not complying with the terms of the tenancy agreement or the Act, the tenant was served with a notice to end tenancy which required the tenant to vacate the unit, on or about April 20, 2013. Due to the short time frame the landlord was not able to rent the unit for May 2013.

Under the Act, the landlord is entitled to an amount sufficient to put the landlord in the same position as if the tenant had not breached the tenancy agreement or Act. This includes compensating the landlord for any loss of rent up to the earliest time that the tenant could have legally ended the tenancy, which in this case would have been May 31, 2013. As a result, the landlord is entitled to recover loss of rent for May 2013, in the amount of **\$950.00**.

I find the landlord has established a total monetary claim of **\$1,950.00** comprised of the rent owed for April 2013 and May 2013, and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the deposit and interest of **\$500.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$1,450.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

The landlord is at liberty to apply for unpaid utilities and damages to the unit.

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: May 09, 2013

Residential Tenancy Branch

