



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties and the witness the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witness.

All testimony was taken under affirmation.

This is an application for a monetary order for \$3000.00 and a request for recovery of the \$50.00 filing fee

Issue(s) to be Decided

Has the landlord established a claim for \$3000.00 in lost rental revenue and damages?

Background and Evidence

The applicant testified that:

- The tenants did not give the required one clear month notice to end tenancy, giving notice on February 6, 2013, and vacating on March 6, 2013.
- They attempted to re-rent the unit, however was unable to do so until April 1, 2013.
- They collected no rent whatsoever in the month of March 2013.
- They are therefore requesting an order for the tenants to pay the loss rental revenue of \$2000.00.

- The tenants also left the rental unit in need of extensive cleaning and repairs, as can be seen from the photo evidence supplied.
- The cost of the cleaning and repairs is well in excess of \$1000.00.
- They are therefore requesting a total order of \$3000.00, and are requesting an order to retain the full security deposit of \$1000.00 towards the claim.

The applicant's witness/daughter testified that:

- She helped the landlords clean the rental unit after the tenants vacated and the unit was left in need of extensive cleaning.
- The rental unit smelled when she first went into the unit and her main job was cleaning the bathrooms which were left extremely dirty.
- There were even cigarette ashes on shelves.
- She does not know exactly how long she spent cleaning the rental unit but it was a long time.

The respondent's testified that:

- They gave notice on February 6, 2013 that they would be moving out of the rental unit on March 6, 2013, so the landlord had one full month notice.
- They vacated the rental unit on March 6, 2013, however they believe new tenants moved in on March 15, 2013 as they saw someone moving boxes into the rental unit.
- They also caused no damage to the rental unit, and in fact all the damage claimed by the landlords existed when they moved in.
- They also left the rental unit exceptionally clean as can be seen from the photo evidence they have supplied, other than a couple of minor issues that they missed, such as the outside of the downstairs door, and the ashes in the fireplace.
- The landlord did not do a move in inspection report with them at the beginning of the tenancy, nor did the landlord ever give them a copy of the move-in report that she claims to have done herself, until the end of the tenancy.

Analysis

It is my finding that the tenants are liable for the lost rental revenue for the month of March 2013.

The tenants did not give the required one clear month notice to end tenancy and although they claim that the landlord re-rent the unit before the end of March 2013, they have provided no evidence in support of this claim.

I will also allow the request for recovery of the \$50.00 filing fee.

I deny however the landlords claim for cleaning and repairs.

Under the Residential Tenancy Regulations, the landlord is required to do a move in inspection report with the tenants when the rental unit is empty, or on some the other agreed-upon date.

The landlord is also required to offer the tenants a second opportunity to do the move in inspection report, if the tenants do not accept the first opportunity. Further a second opportunity must be given in writing in the required form.

Further a copy of the move in inspection report is required to be given to the tenants within 15 days, and the landlord did not give a copy to the tenants within that timeframe.

In this case the landlord did not meet the requirements of the Residential Tenancy Regulations and therefore the move in inspection report that the landlord claims to have done in the absence of the tenants is of little value.

The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met.

In this case it is basically just the landlords, and the landlord's daughter's word against that of the tenants and that is not sufficient to meet the burden of proving that the tenants left the rental unit in need of cleaning and repairs.

Under the Residential Tenancy Act a tenant is responsible to maintain "reasonable health, cleanliness and sanitary standards" throughout the premises. Therefore the landlord might be required to do extra cleaning to bring the premises to the high standard that they would want for a new tenant. The landlord is not entitled to charge the former tenants for the extra cleaning. In this case it is my decision that the landlords have not shown that the tenants failed to meet the "reasonable" standard of cleanliness required

Both the landlords and the tenants have supplied photos of the rental unit that they claim were taken at the end of the tenancy, and although the landlords photos to show the need for some further cleaning, it's my finding that the tenants left these rental premises reasonably clean as required by the Residential Tenancy Act.

Conclusion

I have allowed \$2050.00 of the claim and I therefore order that the landlords may retain the full security deposit of \$1000.00 and I've issued a monetary order for \$1050.00.

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: June 03, 2013

Residential Tenancy Branch

