



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NAI GODDARD & SMITH REALTY SERVICES INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR MNSD MNDC FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) A monetary order pursuant to Section 67 for unpaid rent and damages;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

SERVICE:

Both parties attended and the tenant agreed she received personally the Application for Dispute Resolution. I find that the tenant was served with the documents according to section 89 of the Act.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that the tenants owe rent arrears and also damages and that any damages are beyond reasonable wear and tear? Has the landlord proved the amounts owed for rent and damages? Is the landlord entitled to recover the filing fee?

Background and Evidence:

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the fixed term tenancy commenced in May 2011, a security deposit of \$937.50 was paid and rent is currently \$1945 a month. It is undisputed that the tenant owes \$1874 rent for April 2013 and \$1945 for each of May and June 2013. The tenant said they had experienced unfortunate circumstances with her husband having a heart attack and surgery. The landlord obtained an Order of Possession in a prior hearing and the tenants have vacated the property. The landlord is claiming the rental arrears of \$5764 and to keep the security deposit to pay for damages and the \$500 fee to re-rent the home.

However, the landlord in the application restricted the claim to \$5,000 (waiving anything over this amount) to save paying the extra filing fee. The tenant did not dispute the amount owing.

The landlord also contended there were further clean up costs and costs to repair holes in the walls. The tenant disagreed, said she had cleaned the home and that it was an old home and had some holes in the walls at the commencement of the tenancy. The landlord provided no evidence of a condition inspection report although he said they had one and he also said they had no invoices yet for amounts required to cure the damage

In evidence is a copy of the fixed term lease for a term from May 1, 2013 to April 30, 2014 and the prior Decision.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

I find that there are proven rental arrears in the amount of \$5764 and that the tenant also owes \$500 for the re-renting fee according to clause 3 of the signed lease. I find insufficient evidence to support the landlord's further claim for damages and I dismiss this portion of his claim. However, this is moot in any case as I find the landlord has waived any amounts owing over \$5,000 in order to save a further filing fee. The landlord is therefore restricted to \$5000 for this claim plus the filing fee.

Conclusion:

I find the landlord is entitled to a monetary order as calculated below. I find the landlord is entitled to retain the security deposit to offset the amount owing and to recover filing fees paid for this application. I dismiss further claims of the landlord.

Calculation of Monetary Award:

Rental arrears and re-rent fee (restricted claim)	5000.00
Filing fee	50.00
Less security deposit (no interest 2011-13)	-937.50
Monetary Order to landlord	4112.50

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: August 14, 2013

Residential Tenancy Branch