



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a monetary order for unpaid rent, for a lease break fee, for compensation under the Act and the tenancy agreement, for an order to retain the security and pet damage deposits in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Agent for the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent for the Landlord testified that the Tenants left the rental unit without giving notice. A short while later, the Tenants wrote the Landlord a letter confirming they vacated and the Landlord served the Tenants with the Notice of Hearing and Application by registered mail, at the address provided by the Tenants. Under the Act, the Tenants are deemed served five days after mailing. I find the Tenants have been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the Landlord entitled to monetary compensation from the Tenants?

Background and Evidence

On April 24, 2013, the parties signed a written tenancy agreement. The tenancy began on May 1, 2013, and had an initial fixed term of six months, following which the tenancy would continue on a month-to-month basis. The rent was \$900.00 per month, and the Tenants paid a security deposit of \$450.00 and a pet damage deposit of \$200.00 on or about April 24, 2013.

On or about June 8, 2013, the Tenants left the rental unit without giving any notice to the Landlord.

The Landlord is claiming for unpaid rent for the month of June 2013, in the amount of \$900.00. The Landlord's position is that the Tenants breached the Act and tenancy agreement by not paying rent when due and ending a fixed term tenancy improperly. The Landlord re-rented the unit on July 15, 2013, but is not claiming for losses in July. The Landlord is claiming for liquidated damages as found in the tenancy agreement of \$350.00.

The Landlord has provided a cleaning report. The Agent for the Landlord testified she witnessed the condition of the rental unit and all the floors had to be cleaned due to the pet fur left on the floors throughout the rental unit. The Tenants did not remove all their garbage and furniture and also failed to return several keys to the Landlord, according to the Agent for the Landlord. The Landlord is claiming \$185.00

In evidence the Landlord provided copies of the tenancy agreement, registered mail receipts, pet agreement, rental incentive agreement, condition inspection reports, a move in/out charge analysis, and the rental application.

Analysis

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

I find the Tenants have breached section 45 of the Act by breaching a fixed term tenancy without proper authority to do so. Under section 45(2) of the Act, the Tenants were not allowed to end a fixed term tenancy without an order from an Arbitrator to end the tenancy, or without other authority under the Act to end it. I also find the Landlord is entitled to rent for the month of June 2013.

I find the Tenants failed to return the rental unit to the Landlord in a clean and vacant state, and failed to return keys, and this is a breach of section 37 of the Act and the tenancy agreement.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the Landlord has established that the Tenants breached the Act and tenancy agreement, and are entitled to monetary compensation for the breaches.

I find the Landlord is entitled to liquidated damages as found in the tenancy agreement, as this amount was a reasonable pre-estimate of the costs of re-renting the rental unit, and not a penalty.

I find the Landlord has established a total monetary claim of **\$1,485.00** comprised of \$900.00 in loss of rent for one month, \$350.00 for liquidated damages, \$185.00 for cleaning, removing garbage and replacement keys, and the \$50.00 fee paid for this application.

I order that the Landlord may retain the deposits of **\$650.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$835.00**.

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

Conclusion

The Tenants ended a fixed term agreement without authority to do so under the Act or tenancy agreement. The Landlord is entitled to one month of loss of rent and other losses as explained above, and may keep the security and pet damage deposits in partial satisfaction of the claim.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: September 19, 2013

Residential Tenancy Branch

