



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Sekha Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND MNR MNSD MNDC FF

Introduction

This hearing dealt with applications by the tenant and the landlord. The tenant applied for monetary compensation. The landlord applied for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both the tenant and the landlord participated in the conference call hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. I have reviewed all testimony and other evidence. 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 tenant entitled to monetary compensation as claimed?
Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on May 1, 2013, with rent in the amount of \$750 payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$375. On June 24, 2013, the landlord received an order of possession against the tenant, effective June 30, 2013. The tenancy ended on June 30, 2013.

Tenant's Application

The tenant applied for compensation of \$1050 for items that the tenant stated the landlord threw out instead of storing. The tenant was in the process of moving out of the rental unit but had not yet removed all of his possessions. These items included

electronic music equipment; kitchen appliances, knives and pans; two sofas and cushions, two single beds with frames; various other pieces of furniture; and six lamps. The tenant stated that he asked the landlord to either put these items into storage for 60 days, or leave them in the parking lot in an orderly fashion, so that the tenant or the tenant's friend could come and pick it up. The tenant stated that the landlord threw all of these items into the garbage. He stated that the items were in good condition, three of the four CD players were working, and the bed was brand new. The tenant did not provide any supporting evidence to establish that he owned the items claimed or their value.

The landlord's response to the tenant's claim was that the landlord was attempting to assist the tenant to move out, but the tenant was not cooperating. On June 30, 2013, the effective date of the order of possession, the tenant's possessions were still all over the place. On July 4, 2013, the tenant's son told the landlord that everything that was left was junk, and the landlord could throw it out. The landlord stated that they tested all of the electronics, and nothing worked. The landlord also provided photographs depicting some of the items left behind, and stated that the tenant had been picking up other people's junk they had left out for recycling.

Landlord's Application

The landlord claimed monetary compensation totalling \$3,576.84, for the following:

- 1) \$477.02 for garbage removal – the tenant left large amounts of junk in the rental unit which the landlord had to remove;
- 2) \$320 for 16 hours of suite cleaning, at \$20 per hour – the unit was very messy and smelly, and cleaning and carpet cleaning were required;
- 3) \$100 for help removing garbage – the amount of junk left behind was daunting, and the landlord paid an individual to assist them to remove the items;
- 4) \$750 for June 2013 rent and \$7.50 service charge for NSF cheque – the tenant's cheque for June 2013 rent bounced;
- 5) \$800 for lost rent for July 2013 – the landlord could not show anyone the suite in July because the unit was in such poor condition;
- 6) \$972.32 for legal costs – the landlord incurred legal costs when they hired counsel to assist them with evicting the tenant; and
- 7) \$100 for checking plumbing and \$50 for checking roof – in May 2013 there was a leak in the rental building, and the landlord had to call in a plumber and a roofer to check for the source of the leak. The landlord stated that the tenant caused the leak.

The tenant's response to the landlord's claim was as follows. The tenant acknowledged that the carpets needed cleaning, but he disputed the amount claimed for cleaning. The tenant believed that only one and a half hours of cleaning would be required, not 16 hours. The tenant disputed all costs the landlord claimed in regard to garbage removal, as the landlord should have stored the items, not disposed of them. The tenant also disputed the landlord's claims for legal costs and costs related to the leak, as those matters were addressed in the previous hearing and had nothing to do with this hearing.

Analysis

Tenant's Claim

I find that the tenant is not entitled to any portion of his monetary claim. The tenant did not provide sufficient evidence to establish what items were disposed of and what their value was. Under the Residential Tenancy Act and Regulation, a landlord may dispose of the tenant's abandoned property if the landlord reasonably believes that the property has a total market value of less than \$500. The landlord's evidence was that the items the tenant left behind were of little or no value. In the landlord's photographs, it appears that some of the items left behind may have had some value; however, the tenant did not provide sufficient evidence to establish that the total value of the items would exceed \$500. I therefore find that the landlord was entitled to dispose of the items the tenant left behind.

Landlord's Claim

As noted above, I find that the landlord was entitled to dispose of the tenant's items. I find, based on the landlord's receipts and other evidence that they expended reasonable costs to dispose of the items, and I therefore grant their claims for garbage removal, at \$477.02 and \$100 for assistance to remove it.

The tenant acknowledged that the carpets needed cleaning but disputed the time spent cleaning. The landlord's evidence does not indicate what portion of the 16 hours for cleaning was spent on cleaning the carpets as opposed to cleaning, and while the photographs show that the unit was messy, there was insufficient evidence of specific cleaning to be done. I therefore find it reasonable to grant the landlord \$160, half of the amount claimed, for cleaning and carpet cleaning.

The tenant did not dispute the landlord's claims for unpaid rent and lost revenue for June and July 2013. I find that the landlord is entitled to \$750 for June 2013 rent and \$7.50 for the bank fee.

A landlord cannot claim a greater amount than the monthly rent as lost revenue. The landlord's evidence shows that the abandoned property was removed from the unit on July 4, 2013 and cleaning was done on July 5 and 6, 2013. The landlord did not provide sufficient evidence to establish that they made attempts to re-rent the unit for at least the latter half of July 2013, and I therefore grant the landlord lost revenue for July 2013 in the amount of \$375, representing half a month's rent.

The landlord is not entitled to legal fees for their previous dispute. The only cost related to the dispute resolution process that can be claimed under the Act is the filing fee for the cost of that application.

The landlord did not provide sufficient evidence to establish that the tenant was responsible for any leak that the landlord then paid to investigate.

Filing Fees

As the landlord's claim was mostly successful, they are entitled to recovery of the \$50 filing fee for the cost of their application.

Conclusion

The application of the tenant is dismissed.

The landlord is entitled to \$1919.52. I order that the landlord retain the security deposit of \$375 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1544.52. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: October 1, 2013

Residential Tenancy Branch

