



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REALTY EXECUTIVES ECO-WORLD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNSD, MNDC, FF, O

Introduction

This hearing was convened by way of conference call in response to an application made by the landlord for a Monetary Order: for unpaid rent or utilities; for money owed or compensation for damage or loss under the Residential Tenancy Act (referred to as the Act), regulation or tenancy agreement; to keep all or part of the pet damage or security deposit; and, to recover the filing fee for the cost of the application from the tenant. The landlord also applied for 'other' issues but none were identified during the hearing.

The landlord served the tenant with a copy of the application and Notice of Hearing documents by registered mail. The Canada Post tracking number was provided as evidence for this method of service and the Canada Post website informs that the tenant received and signed for the hearing documents. Based on this, I find the tenant was served with the hearing documents as required by the Act.

Two agents for the landlord appeared for the hearing but only one provided affirmed testimony and documentary evidence in advance of the hearing which was carefully considered in this decision. The tenant failed to appear for the hearing or provide any evidence prior to the hearing taking place despite being served notice of the hearing in accordance with the Act.

Issue(s) to be Decided

- Is the landlord entitled to money owed or compensation for damage or loss under the Act, regulation or tenancy agreement?
- Is the landlord entitled to unpaid rent or utilities?
- Is the landlord entitled to the tenant's security and pet damage deposit in partial or full satisfaction of the landlord's claim?

Background and Evidence

The landlord's agent testified that the tenancy began on June 1, 2012 for a fixed term of one year after which it was intended to continue on a month-to-month basis. A written tenancy agreement, provided as evidence for the hearing, was completed and signed by the landlord and tenant. The landlord collected a security deposit in the amount of \$1,400.00 and a pet damage deposit of \$1,400.00 from the tenant which the landlord still retains. Rent in the amount of \$2,800.00 was payable by the tenant on the first day of each month.

The landlord's agent testified that the tenant provided a written notice to the landlord at the end of March, 2013. The written notice was provided as evidence and shows that the tenant was ending the tenancy and vacating the rental suite on April 31, 2013. The landlord's agent testified that the tenant was informed, in writing, that he was breaking the fixed term period of his tenancy agreement and that he would be responsible for May, 2013 rent payment.

The landlord's agent testified that the tenant moved out on April 30, 2013 but failed to clean the suite leaving a large amount of garbage behind. The landlord submitted an invoice from a professional garbage collection company for the costs incurred in the removal of the tenant's garbage left behind for an amount of \$380.00 which the landlord now claims from the tenant.

The landlord's agent also testified that the tenant failed to clean the suite to a reasonable standard as required by the Act; the carpets had to be steam cleaned, the walls and floors had to be cleaned, the door and light switches had to be cleaned and the stairs had to be swept of leaves and dirt going to the back door, all at a cost of \$250.00 which the landlord now claims from the tenant.

The landlord's agent testified that due to the cleaning of the suite, the landlord's were unable to re-rent the suite and as a result seek costs in the amount of \$2,800.00 for May, 2013 lost rent.

Analysis

Section 45 (2) (b) of the Act states that a tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than the date specified in the tenancy agreement as the end of tenancy. In addition, Policy Guideline 30 to the Act states that a tenant may not use the one month notice provisions of the Legislation to end the tenancy prior to the end of the fixed term.

As a result, I find that the tenant failed to abide with the requirements of the Act in relation to the fixed term tenancy and ended the tenancy one month earlier than is allowed under the Act in relation to the signed fixed term tenancy agreement.

Based on the undisputed affirmed testimony of the landlord's agent, I also accept that the tenant failed to leave the rental suite reasonably clean, less any reasonable wear and tear. I accept the evidence provided by the landlord's agent that the landlord incurred costs in the amount of \$860.00 to return the suite to a reasonable standard for re-rental as evidenced by the submitted invoices for which the tenant is responsible for. As a result, I also find that the tenant is liable for May, 2013 rent in the amount of \$2,800.00 as the tenant broke the fixed term tenancy and the landlord was unable to re-rent the suite as a result of having to clean the rental suite. Therefore, the total amount awarded to the landlord is \$3,430.00

As the landlord has been successful in this matter, the landlord is also entitled to recover from the tenant the \$50.00 filing fee for the cost of this application pursuant to Section 72 (1) of the Act. Therefore, the total amount payable by the tenant is \$3,480.00. As the landlord already holds \$2,800.00 in a deposits, I order the landlord to retain this amount in partial satisfaction of the claim awarded pursuant to Section 38 (4) (b) of the Act. As a result, the landlord is awarded \$680.00.

Conclusion

For the reasons set out above, I grant the landlord a Monetary Order pursuant to Section 67 of the *Residential Tenancy Act* in the amount of **\$680.00**. This order must be served on the tenant and may then be filed in the Provincial Court (Small Claims) 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: November 19, 2013

Residential Tenancy Branch

