



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR ERP MNDC MNR PSF RP FF OPR MNR MNSD

Introduction

This hearing dealt with (a) an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim; and (b) an application by the tenants for an order canceling the landlord's 10 Day Notice dated November 19, 2013 and a monetary order. Both parties also requested recovery of the \$50 filing fee from each other. Both parties attended the hearing and had an opportunity to be heard.

At the outset of the hearing the landlord advised that the tenants had already vacated the rental unit and that an order of possession was no longer necessary.

As well, the tenants had originally requested an order that the landlord make emergency and non-emergency repairs to the rental unit. However, these orders are no longer necessary because the tenants have vacated the rental unit. Similarly, the tenants' request for an order canceling the 10 Day Notice is no longer in issue due to the tenants' having already vacated the house.

Issue(s) to be Decided

Are the parties entitled to the requested orders?

Background and Evidence

This tenancy began on January 15, 2013. The rent is \$1200 per month payable on the 15th day of each month. A security deposit of \$300 was paid at the start of the tenancy. The rental unit is a detached home which is located on a 20 acre property that has an active blueberry farm thereon. The house was built in the 1990's.

On November 19, 2013 the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent. The tenants disputed the Notice on November 28, 2013.

Subsequently, the tenants moved out. The tenants claim that they moved out on December 26, 2013 but the landlord believes the tenants moved out on or about January 10, 2014.

The landlord claims that the tenants still owe rent in a total amount of \$4300. The tenants claim that they only owe rent in the amount of \$2400.

The tenants claim however that the house was in poor repair and that the landlord failed to attend to the problems in a timely manner or at all. For this reason the tenants have requested monetary compensation from the landlord.

The landlord responded that the tenants were told that they would fix things as they came up. The landlord claims that he was not told there were any problems with the house until they were served with the 10 Day Notice. The landlord also pointed out that the tenants were often late with the rent.

In support of his claim for unpaid rent the landlord submitted receipts for rent paid for the year 2013. These receipts show that the rent was often paid late and the receipts show that the last payment made was on November 3, 2013.

In support of their claim for compensation the tenants submitted a three page letter outlining their unhappiness with various aspects of the rental home. This letter was written for the purposes of the hearing and was not delivered to the landlord in the course of the tenancy. It is my understanding from the testimony of the parties that the landlord was not aware there were so many problems and that he would have fixed anything that was brought to his attention.

Analysis

Both parties have made claims. I shall deal with each in turn.

Landlord's Claim

The landlord has claimed unpaid rent comprised of the following:

Unpaid rent Sep 15 - Oct 15	\$700
Unpaid rent Oct 15 – Nov 15	\$1200

Unpaid rent Nov 15 – Dec 15	\$1200
Unpaid rent Dec 15 – Jan 15	\$1200
TOTAL	\$4300.00

In support of his claim the landlord has submitted eleven receipts for the year 2013. The receipts commence on February 16, and end on November 3. There is no receipt for the Jan – Feb rental period. Since nothing was said about the rent for this period (Jan – Feb) at the hearing, I am going to assume that the rent was fully paid for that month. I have calculated that based on a \$1200 per month rent, the total rent owed for the year 2013 was \$14,400. The receipts submitted show that a total of \$7,850 was actually paid plus the \$1200 that I am assuming was paid for the Jan – Feb period which brings the total paid up to \$9,050.

The landlord claims that the total outstanding rent is \$4300 up to January 15, 2014. By my calculation the amount outstanding for the year January 15, 2013 to January 15, 2014 is actually \$5,350 but the landlord has only claimed \$4300.

I am satisfied based on the evidence before me that the landlord has established his claim for unpaid rent in the amount of \$4300. The Act and the tenancy agreement require that the rent be paid on time and in full. The fact that the tenants claim to have moved out in late December does not affect the amount of rent owed for the December – January period.

Tenants' Claim

The tenants have made a total monetary claim in the amount of \$4999. The tenants claim that they are owed this money in compensation for problems they experienced in the rental home over the course of the tenancy. According to the tenants, the problems ranged from problems with the hydro meter to broken windows to issues relating to their belief that the house had previously been used as a grow op.

In response to these complaints, the landlord testified that he heard nothing about any of this until he served the tenants with a 10 Day Notice. The landlord was adamant that had he known there was maintenance needed he would have attended to it immediately. The landlord also denied that the house had ever been used as a grow op.

I asked the tenants whether they had ever written to the landlord about the problems they were having or whether there was any other proof they could offer of the maintenance issues and they replied that they did not.

In the result, I am not satisfied that the tenants have provided sufficient evidence in support of their claim. The burden of proving a claim is on the party making it and in the present case I find that the tenants have failed to meet that burden. Accordingly, the tenants' claim is dismissed.

Conclusion

I find that the landlord has established a total monetary claim of \$4350 comprised of \$4300 in unpaid rent and the \$50.00 fee paid by the landlord for this application. I therefore order that the landlord retain the deposit of \$300 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$4050. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The tenants' claim is dismissed.

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: January 30, 2014

Residential Tenancy Branch

