



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NPR LIMITED PARTNERSHIP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with a landlord's application for a Monetary Order for unpaid rent or utilities; damage or loss under the Act, regulations or tenancy agreement; and, authorization to retain the security deposit. The tenants did not appear at the hearing. The landlord submitted registered mail tracking information as proof the hearing documents were sent to each tenant via registered mail on October 31, 2013 and successfully delivered on November 6, 2013. I was satisfied the landlord sufficiently served the tenants with the hearing documents in a manner that complies with the Act, and I continued to hear from the landlord without the tenants present.

Issue(s) to be Decided

1. Has the landlord established an entitlement to recover the amounts claimed?
2. Is the landlord authorized to retain the tenants' security deposit?

Background and Evidence

The tenancy commenced April 1, 2013 and ended October 28, 2013 when the tenants moved out. The tenancy was for a fixed term set to expire March 31, 2014. The tenants paid a security deposit of \$475.00. The monthly rent of \$986.00 was payable on the 1st day of every month.

The landlord is seeking compensation for the following:

Hydro: \$53.66

The landlord submitted that when a hydro account is cancelled any outstanding balance is paid by the landlord. The landlord is claiming recovery of \$53.66 paid by the landlord toward the tenant's hydro consumption. The tenancy agreement shows that the electricity is not included in rent.

Cleaning: \$200.00 and Garbage removal: \$100.00

The landlord submitted that cleaning was required at the end of the tenancy. The cleaning was performed by the landlord's staff members for a total of eight hours. At \$25.00 per hour the landlord is seeking recovery of \$200.00.

The landlord submitted that a truckload of garbage or abandoned possessions were taken to the dump by the landlord's maintenance crew. The claim of \$100.00 includes labour, transportation and dump fees.

As evidence for this claim, the landlord provided photographs of the rental unit taken at the end of the tenancy.

GST: \$16.25 and admin fee: \$25.00

The landlord is claiming GST of \$16.25 on the above claims.

The landlord testified that an administration fee of \$25.00 was being claimed due to the unpaid hydro. The tenancy agreement provides for administration fees of \$25.00 for late payment; however, the landlord did not produce evidence that the landlord had demanded payment of this amount from the tenants during the tenancy. Further, I note that the tenancy agreement provides a term that an administration fee of \$25.00 will be applied if there are any deductions required from the security deposit.

Security deposit

In preparing the monetary claim the landlord indicated the security deposit was \$525.00; however, the landlord testified this was an error and, as reflected on the tenancy agreement, the tenants only paid \$425.00 for a security deposit. The landlord confirmed that no other deposit was paid by the tenants. The landlord requested the claim be amended to reflect the actual amount of the security deposit paid.

Analysis

Upon consideration of everything presented to me, I provide the following findings and reasons with respect to the landlord's claims.

Hydro

Upon review of the tenancy agreement, I accept that the tenants were required to pay for their own electricity usage. I accept the landlord's undisputed submissions that the landlord paid \$53.66 in relation to the tenants' hydro account. Therefore, I grant this portion of the landlord's claim.

Cleaning and garbage removal

Under the Act, a tenant is required to leave a rental unit reasonably clean and vacant, which includes removal of all garbage and possessions, at the end of the tenancy.

Based upon the undisputed evidence before me, I accept that the tenants failed to comply with these requirements. I also find the landlord's claims reasonable.

Therefore, I grant the landlord's claims for cleaning and garbage removal in the amount of \$200.00 and \$100.00, respectively.

GST

I deny the landlord's claim for GST since the landlord did not establish that the landlord paid GST on top of the amounts claimed by way of documentary evidence. Further, the majority of the landlord's claims relate to labour performed by the landlord's staff members and since GST is not payable on wages I find this claim is unreasonable.

Admin fee

The Act provides that a term in a tenancy agreement is enforceable so long as it does not conflict with the Act or Regulations. The Residential Tenancy Regulations provide for fees a landlord may charge a tenant. Section 7 of the Regulations provides that an administration fee of \$25.00 is permitted for late payment of rent. Since the Regulations do not permit an administration fee for late payment of utilities, I find the landlord is not entitled to claim an administration fee on the unpaid utilities.

I also find the term in the tenancy agreement that provides for a fee of \$25.00 if deductions are required from the security deposit to be non-compliant with the Act and Regulations and is; therefore, not enforceable.

In light of the above, I deny the landlord's request for an administration fee of \$25.00.

Filing fee

Given the landlord's relative success with this application, I award \$41.25 of the filing fee to the landlord.

Security deposit

With respect to the security deposit, I accept that the amount paid by the tenants was \$475.00 as reflected on the tenancy agreement; therefore, I have used that amount in determining the balance payable to the tenants.

Based upon all of the above, I authorize the landlord to retain \$394.91 [calculated as: \$53.66 + \$200.00 + \$100.00 + \$41.25] of the security deposit and I order the landlord to return the balance of \$80.09 to the tenants without delay.

As provided under Residential Tenancy Policy Guideline 17, I provide the tenants a Monetary Order in the amount of \$80.09 to ensure payment is made by the landlord.

Conclusion

The landlord may retain \$394.91 of the tenants' security deposit and must return the balance of \$80.09 to the tenants without delay.

Provided to the tenants is a Monetary Order to ensure payment is made by the landlord.

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: February 28, 2014

Residential Tenancy Branch

