



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for a monetary order for damage to the unit, site or property; for a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenants for the cost of the application.

The landlord attended the hearing but did not testify and was represented by an agent who gave affirmed testimony. However, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on January 8, 2014 no one for the tenants attended. The landlord's agent testified that the documents were sent on that date and in that manner to each of the named tenants individually, and provided 2 Registered Mail Item numbers assigned by Canada Post, and I am satisfied that the tenants have been served in accordance with the *Residential Tenancy Act*. The line remained open while the phone system was monitored for 10 minutes prior to taking any other testimony and the only participant who joined the call was the landlord's agent.

All testimony provided is considered in this Decision.

Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenants for damage to the unit, site or property?
- Has the landlord established a monetary claim as against the tenants for unpaid rent or utilities?

- Has the landlord established a monetary claim as against the tenants for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more particularly for loss of revenue?
- Is the landlord entitled to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on August 1, 2013 and the tenants moved out of the rental unit somewhere near January 10, 2014. Rent in the amount of \$650.00 per month was payable in advance on the 1st day of each month. On July 26, 2013 the landlord collected a security deposit from the tenants in the amount of \$325.00 which is still held in trust by the landlord.

The landlord's agent further testified that the tenants failed to pay rent when it was due in November, 2013, having paid only \$300.00 on November 1, 2013. The tenants further failed to pay any rent for the month of December, 2013 and the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on December 5, 2013. A copy of the notice has not been provided for this hearing, however the landlord's agent testified that the notice stated that the tenants failed to pay rent in the amount of \$650.00 that was due on December 1, 2013, but the November balance of \$350.00 was still outstanding as well.

The tenants also failed to pay any rent for the month of January, 2014, and the landlord applied for, and was successful in obtaining an Order of Possession in a hearing on January 3, 2014. In that hearing, the landlord had applied for an Order of Possession and a monetary order for unpaid rent and to keep the security deposit, and the tenants had applied for an order cancelling the notice to end tenancy. The tenants did not attend the hearing on January 3, 2014 and their application was dismissed without leave to reapply. However, because the landlord served the application by posting it to the door of the rental unit, the monetary claims were dismissed with leave to reapply. The landlord's agent testified that this application is for that unpaid rent. The Order of Possession was served on the tenants on January 6, 2014 at which time the tenants still resided in the rental unit, however they had moved out by January 10, 2014.

The landlord's agent further testified that the tenants left the rental unit in a very unclean state and painting and repairs were required prior to re-renting the unit, and a move-in condition inspection report was completed at the outset of the tenancy, but no receipts or evidence have been provided. The rental unit was re-rented for March, 2014.

The landlord claims unpaid rent in the amount of \$1,650.00, loss of revenue, an order permitting the landlord to keep the security deposit in partial satisfaction of the claim, and recovery of the filing fee.

The landlord's agent also testified that the tenants have not provided the landlord with a forwarding address.

Analysis

In the circumstances, I accept the testimony of the landlord's agent, and find that the tenants filed an application for dispute resolution to dispute a notice to end tenancy for unpaid rent and failed to attend the hearing. The tenants didn't move out of the rental unit until after they were served with the Order of Possession. I further find that the tenants had not paid the outstanding rent for November, 2013 and didn't pay any rent for December, 2013. The hearing was scheduled for January 3, 2014 and the tenants still didn't pay any rent. In the absence of any evidence to the contrary, I find that the landlord has established a monetary claim in the amount of \$350.00 for November, 2013 rent; \$650.00 for December, 2013 rent; \$650.00 for January, 2014 rent; and \$50.00 for recovery of the filing fee, for a total of \$1,700.00.

I am not satisfied, however, that the landlord is entitled to rent for the month of February, 2014 because no evidence has been provided to prove that the landlord mitigated any further loss of revenue by advertising the rental unit for rent once the tenants had moved out.

With respect to the landlord's claim for damages, no evidence has been provided to substantiate any costs, and that claim is hereby dismissed without leave to reapply.

Having found that the tenants are indebted to the landlord for unpaid rent, I also find that the security deposit in the amount of \$325.00 should be set off from the award. Therefore, I order the landlord to keep the security deposit and I grant a monetary order for the difference.

Conclusion

For the reasons set out above, the landlord's application for a monetary order for damage to the unit, site or property is hereby dismissed without leave to reapply.

The landlord's application for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement is hereby dismissed without leave to reapply.

I hereby order the landlord to keep the \$325.00 security deposit, and I grant a monetary order for unpaid rent and recovery of the filing fee, in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,375.00.

This order is final and binding and may be enforced.

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: April 17, 2014

Residential Tenancy Branch

