



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF, O

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Preliminary Matter:

The Residential Tenancy Rules of Procedure, Rule 3.1, requires that all evidence must be served on the respondent and Rule 3.4 requires that, to the extent possible, the applicant must file copies of all available documents, or other evidence at the same time as the application is filed or if that is not possible, at least (5) days before the dispute resolution proceeding.

The landlord submitted an evidence package to the tenants when he first filed his application. The landlord then submitted a second package outside of the legislated timelines. The tenants stated that they had responded and were prepared to proceed and that the landlords' second package ought not to be part of this hearing. Given the above, I declined to accept or consider any evidence that was not properly served on the other party. However, verbal testimony from both parties was considered.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background, Evidence and Analysis

The relationship between these two parties is an acrimonious one. Both parties were cautioned numerous times about their behaviour and demeanour during the hearing. At

times the parties were in a highly charged screaming match with each making allegations of “liar and fraud” to each other. The parties were more intent on arguing with each other than answering questions or presenting their claim.

The tenancy began on March 1, 2013 and ended on March 14, 2014. The tenants were obligated to pay \$1425.69 per month in rent in advance and at the outset of the tenancy the tenants paid a \$697.50 security deposit as well as a \$500.00 pet deposit.

The landlord is the sole applicant in this matter and bears the responsibility of proving his claim. I address the landlord’s claims and my findings around each as follows.

First Claim – The landlord is seeking \$304.74 for unpaid electricity and gas bills. The tenants completely agreed with this claim. Based on the tenants’ agreement the landlord is entitled \$304.74.

Second Claim- The landlord is seeking \$1425.69 for loss of revenue. The landlord stated that on March 14, 2014 the tenants sent an e-mail to the landlord that they would be vacating by the end of March 2014. The landlord stated that he was unable to rent the unit for April. The tenants stated that they had given short notice but it was due to the landlords constant harassing and his overall demeanour towards them. The tenants felt that the landlord would over exaggerate a situation and made the tenants feel uncomfortable in their own home. The tenants stated that they “didn’t want to live like this” and moved.

45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

In the tenants own testimony they confirmed that they had not given a full months notice to the landlord as is required. I fully accept that the relationship between these two parties is strained and communication has broken down but I am not satisfied that the

landlord had harassed them to the point that they had to leave on short notice. Based on the above I find that the landlord is entitled to \$1425.69 for loss of revenue.

Third Claim – The landlord is seeking \$697.56 for cleaning and repairs that he alleges that the tenants are responsible for. The tenants adamantly dispute this portion of the landlords claim. The landlord stated that the tenants had left the unit extremely dirty mostly due to their dog. The landlord stated that many screw holes had been put in by the tenants. The landlord stated that he had to paint much of the suite as the tenants had painted it a colour that he had not approved of. Condition inspection reports were done at move in and move out.

The tenants disputed the move out condition report. The tenants provided digital evidence at move out that was in stark contrast to the condition as purported by the landlord. The tenants pointed out that many of the deficiencies as listed on the move in inspection were repeated at move out with the landlord attempting to lay blame on the tenants. The landlord did not provide receipts to equate to the amount sought. Based on the all of the contradictory and disputing evidence and on the balance of probabilities I dismiss this portion of the landlords' application.

The landlord is entitled to the recovery of the \$50.00 filing fee.

Conclusion

The landlord has established a claim for \$1780.43. I order that the landlord retain the 697.50 security deposit and the \$500.00 pet deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$582.93. 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: May 29, 2014

Residential Tenancy Branch

