



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Brown Bros. Agencies Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MNDC, MNSD, FF
CNR, MNDC, OLC, AS, FF

Introduction

This hearing was originally scheduled in response to 2 applications as follows: i) by the landlord for an order of possession / a monetary order as compensation for unpaid rent or utilities / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee; and ii) by the tenant for cancellation of a notice to end tenancy for unpaid rent or utilities / a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / an order instructing the landlord to comply with the Act, Regulation or tenancy agreement / permission to assign or sublet because the landlord's permission has been unreasonably withheld / and recovery of the filing fee.

The tenant's application was filed on April 17, 2014, and the landlord's application was filed on May 20, 2014. The landlord's application was subsequently amended after the tenant vacated the unit. In the result, I consider the landlord's application for an order of possession to be withdrawn. I also consider the tenant's application for cancellation of a notice to end tenancy for unpaid rent or utilities to be withdrawn, as well as the application for certain orders to be issued against the landlord, and permission to assign or sublet because the landlord's permission has been unreasonably withheld.

Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy is from June 01, 2013 to May 31, 2014. The agreement provides that at the end of the fixed term, “the tenancy ends and the tenant must move out of the residential premises.” Monthly rent of \$2,100.00 is due and payable in advance on the first day of each month. A security deposit of \$1,050.00 and a pet damage deposit of \$1,050.00 were collected. A move-in condition inspection report was completed with the participation of both parties.

Arising from rent which remained unpaid when due on April 01, 2014, the landlord issued a 10 day notice to end tenancy for unpaid rent or utilities dated April 15, 2014. The notice was served by way of posting on the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is April 25, 2014. Subsequently, the tenant made no further payment toward rent or utilities and vacated the unit on or about May 24, 2014. A move-out condition inspection report was completed with the participation of both parties, and the tenant provided a forwarding address on the report.

During the hearing the parties undertook to settle a limited number of matters in dispute.

Analysis

Section 63 of the Act speaks to the **Opportunity to settle dispute**, and provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, certain aspects of the dispute were resolved during the hearing, and these are identified below.

Based on the documentary evidence and testimony of the parties, the various aspects of the respective claims and my findings around each are set out below.

LANDLORD

\$50.00: *unpaid rent March*
\$2,100.00: *unpaid rent April*
\$2,100.00: *unpaid rent May*

The above amounts are undisputed by the tenant, and the net amount claimed reflects a previous agreement between the parties, pursuant to which the landlord retained the

pet damage deposit of \$1,050.00 to offset a portion of unpaid rent. In the result, I find that the landlord has established entitlement to unpaid rent claimed above of **\$4,250.00**.

\$19.83: water utility: August 31 – October 25, 2013

\$70.00: water utility: October 26, 2013 to January 03, 2014

\$69.78: water utility: January 04 – February 28, 2014

\$73.26: water utility: March 01 – April 25, 2014

\$50.00: water utility: April 26 – May 31, 2014 (estimate agreed to during the hearing)

The above amounts are undisputed and / or agreed to by the tenant. Accordingly, I find that the landlord has established entitlement to unpaid utilities in the amount of **\$282.87**.

\$78.75: lawn care + \$367.50: carpet cleaning

The above amounts are undisputed by the tenant, and I therefore find that the landlord has established entitlement to the combined total amount claimed of **\$446.25**.

\$31.99: repair of crisper drawer in fridge

The tenant stated that this was partially damaged at the start of tenancy. In the absence of conclusive comparative notes around the status of the crisper drawer on move-in / move-out condition inspection reports, this aspect of the claim is dismissed.

\$50.00: removal of desk

The tenant informed the landlord that her desk would be removed from the property. However, as the desk was not removed after several days following the end of tenancy, the landlord undertook to have it removed for the cost claimed. However, in the absence of any conclusive documentary evidence in support of the cost claimed, such as a receipt for example, this aspect of the application is hereby dismissed.

\$100.00: filing fee

As the landlord has succeeded with the principal aspects of the application, I find that the landlord has established entitlement to recovery of the full filing fee.

Total: \$5,079.12

Reducing the above amount by the security deposit still held in trust by the landlord, I find that the landlord has established a net claim of **\$4,029.12** (\$5,079.12 - \$1,050.00).

TENANT

\$5,000.00: *loss of Ministry income resulting from inability to accommodate independent living for a foster child*

The tenant testified that she had conversations with the owner / landlord as well as with the landlord's agent near the start of tenancy. In the result, she claims her understanding was that the unit could accommodate independent living for a foster child, such that she could receive approximately \$600.00 per month of Ministry funding. However, the landlord's agent testified that the in-law suite is not a legal rental suite and that the tenant was given no assurances that she would be permitted to accommodate separate independent living in the unit. In the absence of any conclusive documentary evidence to support the tenant's claim, I find that she has failed to meet the burden of proving entitlement to this aspect of her application, and it must therefore be dismissed.

\$50.00: *filing fee*

As the parties agreed to resolve certain aspects of the dispute during the hearing, I find that the tenant has established entitlement to recovery of the full filing fee.

Total: \$50.00

Offsetting the respective entitlements I find that the landlord has established a net claim of **\$3,979.12** (\$4,029.12 - \$50.00).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$3,979.12**. Should it be necessary, this order may be served on the tenant, 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: June 12, 2014

Residential Tenancy Branch

