



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNSD MNDC FF

Introduction

This hearing dealt with monetary applications by the landlord and the tenant. Both the landlord and the tenant participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

The landlord submitted one page of additional evidence after the teleconference hearing had concluded. I did not admit or consider that evidence.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Is the tenant entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on March 15, 2013. Rent in the amount of \$1175 was payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$587.50. The landlord did not do a move-in inspection with the tenant or complete a condition inspection report.

On August 27, 2013 the landlord served the tenant with a notice to end tenancy for landlord's use. The effective date on the notice was November 1, 2013. The tenant did not dispute the notice. The tenant vacated the rental unit on November 1, 2013. The landlord did not do a move-out inspection with the tenant or complete a condition inspection report.

On February 25, 2014 the tenant sent the landlord his forwarding address in writing, and on March 10, 2014 the landlord made an application to keep the deposit.

Landlord's Evidence

The landlord is a contractor who has been building and selling homes including the rental unit. The landlord stated that he had entertained the possibility of allowing the tenant to move into one of the other units that was being built, but nothing was ever finalized. The landlord stated that he agreed to cover the tenant's moving and storage costs in lieu of the one-month compensation that the tenant was entitled to pursuant to section 51 of the Act.

The landlord stated that on November 1, 2013 the movers arrived and the tenant had not packed up his belongings or dismantled furniture. The landlord stated that the movers became annoyed with the tenant and they demanded 100 percent payment up front. The landlord stated that he refused and fired them, and then had some of his employees move the tenant's belongings into storage.

The landlord stated that the rental unit was dirty and damaged when the tenant moved out. The landlord stated that because the tenant did not maintain the unit, he decided not to rent to the tenant again.

The landlord stated that the unit was brand new when the tenant moved in. The landlord stated that he could not do a move-out inspection while the tenant and his possessions were still in the unit.

The landlord claimed the following compensation:

- 1) \$1120 for movers to move the tenant;
- 2) \$645.75 to store tenant's belongings for three months;
- 3) \$185 to have all of tenant's outside belongings moved;
- 4) \$60 to store tenant's outside belongings for three months;
- 5) \$189 to clean the unit after tenant vacated; and
- 6) \$36 for garbage and furniture removal.

The landlord submitted invoices and photographs in support of his application.

Tenant's Evidence

The tenant stated that the landlord told him that he wanted to keep the tenant as a tenant. The tenant stated that the landlord was going to move all of the tenant's belongings into a garage and store them for free. The tenant stated that the landlord hired the original movers, and when the landlord's credit card was refused the movers wanted to be paid up front. The landlord then had his own employees do the move. The landlord is claiming the full amount for professional movers. The tenant stated that it was the landlord's idea to move the tenant's outside belongings to the lot where the new unit was going to be built.

The tenant and his witness stated that they cleaned the unit before they vacated, and the landlord said everything was fine. The new owner also said everything was complete and there were no problems. The tenant stated that the move-out inspection is the landlord's responsibility, not the tenant's.

The tenant questioned the validity of the landlord's invoices, and submitted that the landlord's credibility should be questioned because he submitted altered documents, including a tenancy agreement indicating that the tenancy was month-to-month, rather than for a one-year fixed term as the tenant's copy of the agreement shows.

Analysis

Upon consideration of the evidence and on a balance of probabilities, I find as follows.

Landlord's application

I find that the landlord is entitled to the amount claimed for storing the tenant's possessions at an independent storage facility for three months. The landlord and the tenant may have verbally agreed that the landlord would store the tenant's possessions "in lieu of one month's compensation"; however, the tenant is now claiming the one month's compensation, and it is therefore open to the landlord to claim for the storage costs. I find the storage costs were a legitimate cost that the landlord incurred and the tenant is responsible for that cost.

I find that the landlord is not entitled to any of the compensation claimed for moving the tenant's belongings, disposing of garbage and furniture or "storing" his outside belongings. The invoices for these portions of the claim are issued by the landlord's own company and do not provide a sufficient breakdown of the labour or evidence that the amounts were in fact paid.

I find that the landlord is not entitled to the amount claimed for cleaning. The landlord failed to conduct a move-in or move-out inspection as required by the Act, and he has failed to establish that he incurred any cost for these portions of his claim. The receipt for cleaning is not signed and does not provide a breakdown the work done.

Tenant's Application

The tenant is entitled to compensation equivalent to one month's rent of \$1175. The landlord did not dispute this portion of the tenant's claim.

The tenant is entitled to recovery of the base amount of his security deposit, in the amount of \$587.50. The tenant sent the landlord his forwarding address by registered mail on February 25, 2014, and the landlord applied to keep the security deposit on March 11, 2014, less than 15 days after the tenant mailed his forwarding address in writing. Therefore, the security deposit is not doubled.

Filing Fees

As the landlord's application was partially successful, he is entitled to partial recovery of the filing fee for the cost of his application, in the amount of \$25.

As the tenant's application was partially successful, he is entitled to partial recovery of the filing fee for the cost of his application, in the amount of \$25.

I note that I have made no findings of validity or credibility regarding the two different tenancy agreements submitted by the parties. If the tenant believed that he had a valid one-year lease with the landlord and the landlord was breaching the lease and the Act by serving the tenant with a premature notice to end tenancy, the tenant could have applied to cancel the notice. Instead, the tenant accepted the notice and has now claimed compensation pursuant to that notice.

Conclusion

The landlord is entitled to \$670.75. The tenant is entitled to \$1787.50. I grant the tenant an order under section 67 for the balance due of \$1116.75. 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: July 3, 2014

Residential Tenancy Branch

