



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR, MND, MNSD & MNDC

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Tenants. With the consent of the parties I ordered that the Application for Dispute Resolution be amended to include a claim to retain the security deposit. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to a monetary order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on June 29, 2013 and continue on a month to month basis. The tenancy agreement provided that the tenant(s) would pay rent of \$900 per month payable on the first day of each month. The tenants paid a security deposit of \$450 at the start of the tenancy.

On April 22, 2014 the landlord awoke to discover that the tenants had left the washing machine on all night leading to a flood that caused significant damage. The landlord produced evidence to indicate they paid \$1000 deductible on their insurance and the insurance company paid the restoration company over \$15,000 to make repairs. The landlord testified the flood was caused by the tenant's failure to properly load the washing machine resulting in it being on all night. The invoice from the technician who fixed the washing machine states: "Clothing jammed between door glass and boot caused bellow to tear and hair clips in drain pump. Installed new bellow and spring clamp cleaned out drain pump Tested OK No Leaks". He testified that his insurance premiums will be increased by \$300 per year for the next 6 years because of the loss.

The tenants moved their belongings out of the rental unit on April 22, 2014. The tenants advised the landlord in the middle of May they were not interested in returning to the rental unit. The landlords were able to re-rent the premises commencing June 1, 2014.

Analysis

The applicants have the burden of proof to establish the claim on the evidence presented at the hearing on a balance of probabilities. After hearing the disputed evidence I determined the flood was caused by the tenants' failure to properly load the washing machine. The tenants disputed they were responsible saying that it cannot be established with certainty they caused the flood. The landlords have established that the flood was caused on a balance of probabilities. The tenants did not offer an alternate explanation as to the cause of the flood. They did not dispute they loaded the washing machine and started it the night before.

Monetary Order and Cost of Filing fee

With respect to each of the landlord's claims I find as follows:

- a. I determined the landlords have established a claim in the sum of \$1000 for the insurance deductible. I determined the tenants' negligence caused the loss. The cost to repair the damage exceeded the cost of the deductible and the additional insurance premiums.
- b. I determined the landlords have established a claim in the sum of \$1800 for the increase to insurance premiums that will occur (\$300 for the next six years).
- c. I determined the landlords have established a claim for the amount claimed in the sum of \$175 for the cost to repair the washing machine.
- d. The landlords claim \$1350 for loss of rent (1 ½ months). I determined the landlords have established a claim for loss of rent for one month only (May 2014) in the sum of \$900.
- e. I dismissed the claim for the cost of wages for the cost to clean up as this claim is not foreseeable. Further, the landlord failed to produce evidence to support his loss of wages claim of \$600.

In summary I determined the landlord has established a monetary claim against the tenant(s) in the sum of \$3875 plus the \$50 filing fee for a total of \$3925.

Security Deposit

I determined the security deposit plus interest totals the sum of \$450. I determined the landlord is entitled to retain this sum. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$3475.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: August 25, 2014

Residential Tenancy Branch

