



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bayside Property Services Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR MNSD MNDC FF

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. The teleconference hearing convened over two dates, and the landlord and the tenant participated in the hearing on both dates.

The hearing first convened on June 3, 2014. On that date an issue arose regarding service of evidence, and I determined that it was appropriate to adjourn the hearing. The hearing reconvened on August 12, 2014, and on that date the tenant confirmed that he had received all of the landlord's 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.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

On January 6, 2014 the tenant paid the landlord a security deposit of \$425, and the landlord and the tenant signed an agreement for a tenancy to begin on February 1, 2014. The tenancy was to be for a fixed term of one year, and the monthly rent was \$850. The tenant initialled beside the first term in the addendum to the tenancy agreement, where the tenant agreed that if he ended the tenancy before the end of the fixed term, he would pay the landlord \$425 in liquidated damages.

On February 1, 2014 the landlord and the tenant attended at the rental unit to conduct a move-in inspection. The tenant refused to sign the condition inspection report and advised the landlord that he no longer wanted to move in. On that date the tenant gave the landlord written notice that he would not move in, and indicated that he was not satisfied with the condition of the unit. In that letter the tenant indicated that the reasons for his dissatisfaction were that the flooring was not hardwood but imitation linoleum; the flooring is coming up in places; no keys were available for the unit and he was told the locks still needed to be replaced; and the fire alarm was hanging from wires and did not appear operational. In the hearing the tenant reiterated that these were his reasons for not moving into the unit.

The landlord stated that after advertising they were able to re-rent the unit beginning March 1, 2014. The landlord stated that she was willing to address the tenant's concerns with the unit immediately, but the tenant was not satisfied. The landlord stated that the tenant knew when he viewed two other units that the flooring was going to be vinyl planking, and the ads for the unit also indicated that fact. The landlord stated that the smoke detector was not inoperable, the painter had just not put it back in place. The landlord stated that the tenant remembered incorrectly what the landlord had said about the keys: she told him that the locks had already been changed, but she had forgotten the new keys in her office and would have to go down to get them.

The landlord has claimed the following compensation:

- 1) \$850 in unpaid rent for February 2014;
- 2) \$25 for a late payment fee, as per the addendum to the tenancy agreement; and
- 3) \$425 for liquidated damages, for all costs associated with re-renting the unit.

In support of their claim, the landlord submitted evidence including the tenancy agreement and addendum signed by the tenant and copies of ads showing that the landlord took steps to re-rent the unit as soon as possible.

Analysis

I find that the landlord has established their claim in its entirety. The evidence noted above shows that the tenant entered into a fixed-term lease and breached the lease by not moving in. I accept the evidence of the landlord that the minor problems with the rental unit could have been immediately rectified. The tenant did not have grounds to breach the lease. The landlord is therefore entitled to unpaid rent, the late fee and the liquidated damages.

As the landlord's application was successful, they are also entitled to recovery of the \$50 filing fee for the cost of this application.

Conclusion

The landlord is entitled to \$1350. I order that the landlord retain the security deposit of \$425 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$925. 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: August 13, 2014

Residential Tenancy Branch

