



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, MND, MNR, FF

Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant, and one brought by the landlord(s). Both files were heard together.

The tenant's application is a request for a Monetary Order for \$5355.00.

The landlord's application is a request for a Monetary Order for \$2523.00, a request to retain the full security deposit towards the claim, and a request for recovery of the \$50.00 filing fee.

Issue(s) to be Decided

The issue to be decided is whether or not either the landlord or the tenant has established a monetary claim against the other.

Background and Evidence

The tenant testified that:

- She received a 10 day Notice to End Tenancy on March 8, 2014, and was in the process of vacating however the landlord changed the locks prior to the end of the tenancy.
- The landlord also seized all her remaining belongings and therefore she's requesting a monetary order for the value of those belongings, or an order that the belongings be returned.
- She estimates the total value of her belongings to be \$4405.00.
- The landlord has also failed to return her security deposit even though a forwarding address was e-mailed to him on April 7, 2014. She is therefore

requesting an order for return of double her security deposit as her deposit was not returned within the 15 day time limit required.

The total amount she is therefore claiming is as follows:

Value of belongings held by landlord	\$4405.00
Security deposit of \$475.00 double	\$950.00
Total	\$5355.00

The landlords testified that:

- The tenant failed to pay the February 2014 rent and therefore on February 7, 2014 a 10 day Notice to End Tenancy was posted on her door.
- The tenant paid a portion of that outstanding rent, however there is still \$407.00 outstanding.
- The tenant failed to pay any rent for the month of March 2014 and therefore a second 10 day Notice to End Tenancy was posted on her door on March 2, 2014.
- The tenant had been served with a 10 day Notice to End Tenancy on both February 7, 2014, and March 2, 2014, and the tenant had not complied with either of those notices nor had the tenant paid the full outstanding rent.
- They did not seize the tenants belongings before the end of the tenancy, this tenancy had ended, and on March 18, 2014 they discover the tenant had vacated and some belongings appeared to have been abandoned by the tenant.
- They have tried to make arrangements for the tenant pick up her belongings, but they have been unsuccessful.
- They still have all the tenants belongings stored at their place and are fully willing to allow the tenant to come and pick them up.
- They have never received a forwarding address in writing from the tenant.
- They did not receive an e-mail on April 7, 2014 from the tenant as she claims.
- The tenant also failed to pay for utilities during the tenancy.
- The tenant also failed to pay the promised pet deposit.

They are therefore requesting a monetary order as follows:

February 2014 rent outstanding	\$407.00
March 2014 rent outstanding	\$950.00
60% of Gas utility Bill	\$120.20
60% of electricity bill	\$72.00
60% of water bill	\$14.00
Pet deposit	\$200.00
Late fee	\$25.00
Filing fee	\$50.00
Total	\$1838.20

They therefore request an order allowing them to keep the full security deposit towards this claim and requested a monetary order be issued for the difference.

They also ask that the tenant's application be dismissed in full.

In response to the landlord's testimony the tenant testified that:

- She did not pay the full February 2014 rent, however she paid \$100.00 more than the landlord claims. She has not received a receipt for the \$100.00 payment.
- She did not pay any rent for the month of March 2014.
- She was supposed to pay utilities, however again she does not believe she owes as much as the landlords are claiming as she paid some money to the landlords in cash for which she never received a receipt.
- Now that she knows the landlord is willing to return her belongings, she will make arrangements with the landlord to pick them up.
- She does not know why the landlords would not have received her e-mail with her forwarding address, as she sent it on April 7, 2014.

In response to the tenant's testimony the landlords testified that:

- the tenant was always given a receipt for any money paid.

Analysis

First of all it's my finding that the security deposit held is \$425.00. The tenant claims to have paid \$475.00 however when there is a dispute I must look at any written documentation; and the tenancy agreement states that \$425.00 was paid.

Secondly it's my finding that the landlord has not been properly served with a forwarding address in writing. The tenant claims to have sent the forwarding address by e-mail, however e-mail is not a method of service that's recognized under the Residential Tenancy Act, and therefore since the landlord denies receiving the tenants e-mail is my finding that there is insufficient evidence to show that the landlord has been served with a forwarding address in writing.

I therefore will not be issuing an order for return of double the tenant's security deposit.

It's also my finding that the landlord did not illegally seize the tenant's belongings.

The tenant had been served with the Notice to End Tenancy on both February 7, 2014, and March 2, 2014, and since the full outstanding rent was never paid, both of those notices were still valid.

It is therefore my finding that when the landlord found that the tenant had removed the majority of her belongings from the rental unit it was reasonable for him to assume that the remaining items had been abandoned.

That being said, the landlord has stated at the hearing that he is fully willing to allow the tenant to come and retrieve all her belongings, and the tenant stated that she will therefore phone the landlord and make arrangements to pick up her belongings. I therefore will not be issuing any Monetary Order for the value of the belongings, nor will I issue an order for the landlord to return the belongings as the parties have an agreement for the return of those items.

I also find that the landlord has shown that there is a total of \$407.00 rent outstanding for February 2014, and \$950.00 rent outstanding for March 2014 and I therefore allow that portion of the landlords claim. The tenant claims to paid \$100.00 more in the month of February 2014, however she has insufficient evidence to substantiate that claim.

I will not allow the landlords claim for outstanding utilities, however as the landlord has failed to provide any copies of any invoices to this hearing, and therefore there is insufficient evidence for me to make a finding on any amounts outstanding.

I also deny the landlords request for pet deposits to be paid, as this tenancy has already ended and pet deposits would have to have been returned at the end of the tenancy anyway.

I will allow the landlords claim for the late rent fee of \$25.00.

I also allow the request for recovery of the \$50.00 filing fee.

Therefore the total amount of the landlord's claim I have allowed is as follows:

February 2014 rent outstanding	\$407.00
March 2014 rent outstanding	\$950.00
Late fee	\$25.00
Filing fee	\$50.00
Total	\$1432.00

Conclusion

I have allowed \$1432.00 of the landlord's claim, and I therefore order that the landlords may retain the full security deposit of \$425.00, and I've issued a Monetary Order in the amount of \$1007.00.

The tenant's application is dismissed in full without leave to reapply.

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

