



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR, MND, MNDC, FF

Introduction

This hearing concerns the landlord's application for a monetary order as compensation for unpaid rent or utilities / compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee.

The landlord attended and gave affirmed testimony. The landlord testified that the application for dispute resolution and notice of hearing were personally served on the tenant on May 09, 2014. Despite this, the tenant did not appear.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the tenancy began on December 01, 2012. Monthly rent of \$650.00 was due and payable in advance on the first day of each month, and a security deposit of \$325.00 was collected. A move-in condition inspection report was completed with the participation of both parties.

Tenancy ended on July 01, 2013, and a move-out condition inspection report was completed with the participation of both parties. Thereafter, in response to applications by the landlord, two previous hearings were held in disputes between these parties:

File #

Date of hearing: July 17, 2013

Date of decision: July 17, 2013

Pursuant to the decision, the landlord's application for a monetary order reflecting unpaid utilities in the amount of \$904.00, in addition to recovery of the \$50.00 filing fee was dismissed without leave to reapply.

File #

Date of hearing: December 18, 2013

Date of decision: December 18, 2013

Pursuant to the decision, the Arbitrator found that the landlord had established a claim of \$775.00, reflecting "\$600.00 for cleaning costs, \$125.00 for repairs and the \$50.00 cost of this application." The Arbitrator ordered the landlord to retain the security deposit of \$325.00, and a monetary order was issued in favour of the landlord for the balance owed of \$450.00 (\$775.00 - \$325.00).

Further, in the decision the Arbitrator dismissed the claim of \$150.00 for the rental of a carpet cleaner, dismissed the claim of \$400.00 for window frames, and dismissed the claim of \$400.00 for doors. The claim of \$200.00 for labour to "fix the unit" was allowed in part, as above, in the amount of \$125.00.

Additionally, with respect to unpaid utilities, the Arbitrator noted that in the earlier decision dated July 17, 2013, the Arbitrator had dismissed that aspect of the landlord's application "without leave to reapply." In the result, pursuant to the principle of *res judicata*, the Arbitrator declined authority to rule on that aspect of the application and it was dismissed.

During the hearing the landlord testified that tenant "TW," who was named alongside of tenant "TS" in the two previous applications, has paid "his half" of the monetary order issued in the amount of \$450.00 by date of December 18, 2013, as well as "his half" of utilities in the amount of \$301.20 ($\$602.40 \div 2$). In the result, the landlord now seeks compensation from tenant "TS" in the limited amount of \$576.20, as follows:

\$225.00: $\frac{1}{2}$ the amount of the monetary order already issued

\$301.20: $\frac{1}{2}$ the utilities

\$50.00: filing fee

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that all aspects of the claim currently before me have previously been decided. In this regard, "Black's Law Dictionary" defines *res judicata*, in part, as follows:

Rule that a final judgment rendered by a court of competent jurisdiction on the merits is conclusive as to the rights of the parties and their privies, and, as to them, constitutes an absolute bar to a subsequent action involving the same claim, demand or cause of action.

Following from the above, the landlord's application must be dismissed.

Finally, I note that the monetary order issued in favour of the landlord by date of December 18, 2013, names both tenant "TS" and tenant "TW." For the information of the parties, attention is drawn to Residential Tenancy Policy Guideline # 13, which speaks to "Rights and Responsibilities of Co-tenants," and provides in part as follows:

Co-tenants are jointly responsible for meeting the terms of the tenancy agreement. Co-tenants also have equal rights under the tenancy agreement.

Co-tenants are jointly and severally liable for any debts or damages relating to the tenancy. This means that the landlord can recover the full amount of rent, utilities or any damages from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord.

As the principal aspects of the landlord's application have been dismissed, the application to recover the filing fee must also be dismissed.

Conclusion

The landlord's application is hereby dismissed in its entirety.

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: September 09, 2014

Residential Tenancy Branch