



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF
 CNR

Introduction

This hearing was convened by way of conference call concerning applications made by the landlords and by the tenant. The landlords have applied for an Order of Possession for unpaid rent or utilities; for a monetary order for unpaid rent or utilities; for an order permitting the landlords to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application. The tenant has applied for an order cancelling a notice to end tenancy for unpaid rent or utilities.

One of the landlords attended the hearing and gave affirmed testimony. However, despite making an application for dispute resolution, and despite being served with the Landlord's Application for Dispute Resolution and notice of hearing by registered mail on October 20, 2014 no one for the tenant attended the call. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the landlord. The landlord testified that the documents were served on that date and in that manner, and has provided a copy of the envelope showing that the registered mail was returned to the sender marked "Unclaimed," and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Since the tenant has not attended the hearing, the tenant's application is hereby dismissed without leave to reapply.

During the course of the hearing, the landlord testified that the tenant has moved out of the rental unit, and the landlords' application for an Order of Possession is withdrawn.

All evidence and testimony of the landlord has been reviewed and is considered in this Decision.

Issue(s) to be Decided

The issues remaining to be decided are:

- Have the landlords established a monetary claim as against the tenant for unpaid rent and utilities?
- Should the landlords be permitted to keep the security deposit in partial satisfaction of the claim?

Background and Evidence

The landlord testified that this fixed term tenancy began on June 1, 2014 and was to expire after one year, however the tenant moved out of the rental unit sometime between November 1 and November 4, 2014. Rent in the amount of \$1,350.00 per month was payable in advance on the 1st day of each month. On May 21, 2014 the landlords collected a security deposit from the tenant in the amount of \$675.00 which is still held in trust by the landlords, and no pet damage deposit was paid.

A copy of the tenancy agreement has been provided which contains an Addendum wherein the parties agreed that the tenant would have the gas and hydro in the tenant's name and be responsible for the payment of those utilities, and the tenant would pay any amount over \$100.00 for the city water bill. The tenant failed to pay the tenant's portion of the water bill in and on September 16, 2014 the landlords served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The tenant paid the landlords for that bill, but failed to pay rent when it was due for October, 2014. The landlords served the tenant with another 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by posting it to the door of the rental unit on October 2, 2014. The next water bill arrived, and the landlords posted a copy of the water bill to the door of the rental unit on October 5, 2014. The tenant's share of that bill is \$342.83. The tenant called the landlords to advise that the tenant had filed an application for dispute resolution disputing the notice, and that the tenant would not be paying any more money to the landlords until after the hearing. However, the tenant abandoned the rental unit sometime between November 1 and November 4, 2014.

The tenant has not paid any rent for October, 2014, and the landlord testified that the tenant left the rental unit quite damaged and left a lot of mess left behind. He stated that it took awhile to hire someone to take stuff to dump and clean it up, which was finished about a week and a half ago, so the landlords are applying for November's rent as well. It shows that the work was performed on November 8 and 11, 2014.

The landlords also claim \$292.50 for the cleaning and have provided a move-in and move-out condition inspection report. A copy of an invoice has also been provided

showing that 2 kitchens and 3 bathrooms were cleaned, as well as removal of waste and cleaning floors and Dura deck for that amount, being 19.5 hours at \$15.00 per hour. The invoice also includes paint and putty touch up in the living room wall.

The landlords claim \$2,700.00 in unpaid rent for October and November, 2014; \$342.83 for the water bill; \$292.50 for cleaning the rental unit; recovery of the \$50.00 filing fee; and an order permitting the landlords to keep the security deposit in partial satisfaction of the claim.

Analysis

Having heard the testimony of the landlord, and based on the evidence provided by the parties, including the notices to end tenancy issued by the landlords, I am satisfied that the tenant has failed to pay rent for the month of October, 2014 and is indebted to the landlords the sum of \$1,350.00.

With respect to unpaid rent for the month of November, 2014, the landlord testified that it took awhile to get the rental unit ready to re-rent, and I note that the cleaning was finished on November 11, 2014. I am not satisfied that the landlord did what was reasonable to mitigate, or reduce any loss of revenue beyond November 15, 2014, and I therefore find that the tenant is liable for half of November's rent, or \$675.00.

With respect to the outstanding water bill, I am satisfied that the tenant agreed to pay any portion over \$100.00, and failed to pay the tenant's share, however, the invoice provided by the landlord also includes sewer, garbage and recycling, and I am not satisfied that the tenant agreed to those amounts. Therefore, I reduce the amount to \$255.20, less the landlord's share of \$100.00, amounts to \$155.20. The tenant's evidence package also shows amounts for water, sewer, garbage and recycling, however the tenant has not attended the hearing and has paid that bill, so I decline to make any deductions from any previous bills.

With respect to the cleaning bill, the landlords have not applied for a monetary order for damages, and therefore have not put the tenant on notice of such a claim, and that portion of the landlords' application is dismissed.

Having found that the tenant owes rent in the amount of \$2,025.00 and the water utility in the amount of \$155.20, I find that the landlord has established that the security deposit should off-set the amounts due to the landlords. The landlords are also entitled to recovery of the \$50.00 filing fee, and I order the landlords to keep the \$675.00 security deposit, and I grant a monetary order in favour of the landlords for the difference in the amount of \$1,555.20.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed without leave to reapply.

The landlords' application for an Order of Possession is hereby dismissed as withdrawn.

I hereby order the landlords to keep the \$675.00 security deposit in partial satisfaction of the claim, and I grant a monetary order in favour of the landlords as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,555.20.

This order is final and binding and may be enforced.

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: December 02, 2014

Residential Tenancy Branch

