



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR OPR FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46 and 55; and
- c) An order to recover the filing fee pursuant to Section 72.

SERVICE:

Both parties attended and the tenant agreed he received the Notice to end Tenancy dated January 4, 2015 taped on the door and the Application for Dispute Resolution by personal service. I find that the tenant was properly served with the documents according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated January 4, 2015 for unpaid rent. The tenant stated he vacated on January 31, 2015 so the landlord no longer requires an Order of Possession. The remaining issue is if the landlord is entitled to a Monetary Order for rental and utility arrears, a new lock and the filing fee?

Background and Evidence:

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The parties agreed that the tenancy commenced October 4, 2014 but there is no written tenancy agreement. The landlord said the terms of an oral agreement were that he would reduce rent from \$700 to \$600 a month and the tenant would pay a portion of the utilities based on the number of persons in the home. The tenant disagrees and states his rent was \$600 a month; he referred to a previous hearing under file #830024 where the tenancy terms were discussed. It is undisputed that there is no security deposit and the tenant has not paid rent for January 2015. He said he vacated on January 31, 2015 and when he came back to get his second load, he found his belongings left outside in the rain.

The landlord claims \$600 rent for January 2015, \$320 for utilities unpaid since the tenancy commenced and \$147.55 for a new lock (invoice included in evidence). The landlord said there were damages to the property and the tenant left without informing him so he is owed further amounts.

The landlord explained that he rents from the owner and the owner was requiring entry for some building inspections but they could not gain entry as the tenant had changed a lock, not given him a key and had even fastened the door with additional screws. He provided a letter dated December 16, 2014 in which he requested the tenant to put the original locks back on or he would have to engage a locksmith for December 22, 2014 to install a new lock so he could gain entry to the basement. The tenant said the relationship with the landlord deteriorated when he began making demands and he withheld January rent when the door was removed from the basement. He said the landlord was also unwilling to provide receipts for rent.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

I find an Order of Possession is no longer required as the tenant vacated.

Monetary Order

The onus of proof on the balance of probabilities is on the party making the claim. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. I find both parties agree that there are rental arrears in the amount of \$600 for January 2015. However, I find insufficient evidence that the tenant owes utility arrears. There is no written tenancy agreement and no documentary evidence to support the landlord's claim for utilities; in the previous hearing, the landlord's attempt to claim utility costs was also unsuccessful.

In respect to the claim for \$147.55 for a lock change, I find the evidence supports the landlord's claim. Section 31 of the Act provides that a tenant must not change locks to common areas or to the unit unless the landlord consents to the change. I find the landlord by letter dated December 16, 2014 gave the tenant opportunity to change the locks back to the original but the tenant did not so a locksmith was engaged and a charge of \$147.55 was made. I find the landlord entitled to recover this cost as invoiced.

The landlord made reference to possible further monetary claims. I give the landlord leave to reapply for further amounts that may be owed.

Conclusion:

I find the landlord is entitled to a monetary order as calculated below and to recover filing fees paid for this application. I dismiss his claim for utility arrears without leave to reapply but give him leave to reapply for further amounts that may be owed.

Calculation of Monetary Award:

Rental arrears January 2015	600.00
Cost of lock change	147.55
Filing fee	50.00
Total Monetary Order to Landlord	797.55

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: February 12, 2015

Residential Tenancy Branch

