



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PEMBERTON HOLMES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a Monetary Order for unpaid rent; damage to the unit; money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Landlord's agent, C.A. appeared at the hearing. She gave affirmed testimony and was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified she served the Tenants with the Notice of Hearing and their Application on August 17, 2014 by registered mail to the forwarding address provided by the Tenants. The Landlord provided the tracking numbers for both packages which were sent to each tenant. Under the Act documents served this way are deemed served five days later; accordingly, I find the Tenants were duly served as of August 22, 2014.

The Landlord amended their application to correct the unit as "upper" not "lower" and sent the amended application to the Tenants by regular mail.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

Have the Tenants breached the Act or tenancy agreement, entitling the Landlord to monetary relief?

Background and Evidence

Introduced in evidence was a copy of the residential tenancy agreement indicating as follows: the tenancy began on February 15, 2014; monthly rent was payable in the amount of \$1,925.00 (including a set charge of \$225.00 per month for utilities); and, the Tenants paid a security deposit of \$850.00.

Pursuant to the Tenancy Agreement, the Tenants agreed to pay late fees in the amount of \$25.00, N.S.F. fees of \$25.00 as well as the cost of lawn and garden maintenance should the lawn and garden care not meet the Landlord's expectations.

The Landlord sought the sum of \$4,848.00 on the Application for Dispute Resolution. Introduced in evidence was a monetary order worksheet, dated August 13, 2014, indicating the Landlord sought the sum of \$4,669.60 ("Worksheet"). C.A. confirmed that the Worksheet was provided to the Tenants with the application package and which confirmed the Landlord sought a monetary order for the following:

Repair to door jam	\$63.00
Cleaning, disposal of furniture, motor and garbage	\$916.65
Pest control for ant infestation	\$141.75
Carpet cleaning	\$245.70
Lawn care	\$94.50
Outstanding rent, N.S.F. and late fees	\$3,208.00
TOTAL	\$4,669.60

The Landlord also sought recovery of the filing fee such that she requested a monetary order in the total amount of \$4,719.60.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenants have not paid the outstanding rent and did attend the hearing.

Under section 26 of the Act, the Tenants must not withhold rent, even if the Landlord is in breach of the tenancy agreement or the Act, unless the Tenants have some authority under the Act to not pay rent. In this situation the Tenants had no authority under the Act to not pay rent.

I accept the undisputed evidence of the Landlord and find that the Landlord has established a total monetary claim of \$4,719.60 comprised of the amounts set out on the Worksheet in the amount of \$4,669.60 and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the security deposit of \$850.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$3,869.60.**

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Tenants failed to attend the hearing. Based on the undisputed testimony and evidence of the Landlord, I find that the Landlord, may keep the security deposit and interest in partial satisfaction of the claim, and is granted a monetary order for the balance due.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: March 09, 2015

Residential Tenancy Branch

