



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to a Landlords' Application for Dispute Resolution (the "Application") made by the Landlords on August 15, 2014. The Landlords applied for a Monetary Order for: unpaid rent; damages to the rental unit; for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the "Act"), regulation or tenancy agreement; to keep the Tenants' security deposit; and to recover the filing fee for the Application.

The Landlords appeared for the hearing and both parties provided and confirmed each other's testimony. The Landlords also provided documentary and photographic evidence prior to the hearing. There was no appearance for the Tenants during the 23 minute duration of the hearing or any submission of written evidence prior to the hearing.

The Landlords testified they had served each Tenant with a copy of the Application, the Notice of Hearing documents and their documentary evidence by registered mail on August 16, 2014.

The Landlords provided a copy of both Canada Post tracking numbers as evidence for this method of service and testified that the Canada Post website indicated the Tenants had received and signed for the documents. Therefore, in the absence of any evidence from the Tenants to contradict this, I find that the Tenants were served the documents pursuant to Section 89(1) (c) of the *Residential Tenancy Act* (the "Act").

Issue(s) to be Decided

- Are the Landlords entitled to unpaid rent?
- Are the Landlords entitled to the costs claimed for damage to the rental unit?
- Are the Landlords entitled to keep the Tenants' security deposit?

Background and Evidence

The Landlords testified that this tenancy started on December 1, 2013 for a fixed term of one year set to expire on December 1, 2014. Rent under the written tenancy agreement was payable by the Tenants in the amount of \$1,800.00 per month. The Tenants provided the Landlords a \$900.00 security deposit on November 1, 2013 which the Landlords still retain. The Landlords completed a move in Condition Inspection Report (the "CIR") on November 29, 2013 and a move out CIR on August 8, 2014, which was provided into written evidence.

The Landlords testified that the Tenants failed to pay rent on July 1, 2014. As a result the Tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") on July 29, 2014. The Notice which was provided into written evidence and shows the vacancy date was August 8, 2014.

The Landlord testified that the Tenants moved out in accordance with the vacancy date of the Notice but did not return the keys to the rental suite until August 10, 2014. As a result, the Landlords now seek to recover unpaid rent for July 2014 and ten days of prorated rent for August 2014. The total amount claimed is **\$2,380.65**.

The Landlords testified that during the move out inspection of the rental suite, they noted that one of the shelves in the bedroom had been damaged, and the lawn and gardens had not been maintained. The Landlords referred to the addendum of the written tenancy agreement which specifically requires the Tenants to "perform yard work and upkeep the lawn, pond, and garden areas".

The Landlords provided photographic evidence which indicated that the lawns and gardens had not been maintained and showed the damage that had been created to the wall as a result of the broken shelf. This was also noted by the Landlords on the move out CIR. One of the Tenants signed the move out CIR agreeing to the fact that the move out CIR fairly represented the condition of the rental unit. The Tenant also provided their forwarding address on the CIR.

The Landlords hired a landscape company to cut the lawns and clean the garden for a cost of \$150.00 for which a receipt was provided into written evidence. The Landlord explained that they repaired the shelf themselves and assigned a value of \$50.00 for this repair. Therefore the Landlords seek a total amount of \$200.00 for damages to the rental unit.

Analysis

I accept the Tenants provided the Landlords with their forwarding address on the move out CIR on August 8, 2014. The Landlords made their on August 15, 2014. Therefore, I find that the Landlords made their Application to keep the Tenants' security deposit within the 15 day time limit set out by Section 38(1) of the Act.

Section 26(1) of the Act states that a tenant is required to pay rent when it is due under the tenancy agreement. Based on the Landlords' undisputed testimony which was supported by the Notice, I find the Tenants did not pay rent for the month of July 2014.

I also accept the Landlords oral evidence that the Tenants did not return the keys for the rental suite until the tenth day of August 2014, thus causing the Landlord to lose rent for this period. As a result, I find the Landlords also are entitled to unpaid rent for this period. Therefore, the total amount payable to the Landlords for unpaid rent is **\$2,380.65**.

Section 37(2) of the Act requires a tenant to leave a rental suite reasonably clean and undamaged at the end of a tenancy. In addition, Section 21 of the *Residential Tenancy Regulation* allows a condition inspection report to be considered as evidence of the state of repair and condition of the rental unit, unless a party has a preponderance of evidence to the contrary.

The Tenants provided no evidence prior to the hearing. Therefore, I rely on the undisputed testimony of the Landlords, the move out CIR which was signed by one of the Tenants acknowledging damage to the bedroom shelf and the lack of maintenance to the gardens as required by the tenancy agreement, and the invoice supporting the cost of the landscaping. I find this to be sufficient evidence to show that the Tenants caused damage to the rental unit and failed to maintain the gardens. Therefore, I am satisfied by the costs being claimed by the Landlords for these damages. As a result, the Landlords are awarded the **\$200.00** claimed.

As the Landlords have been successful in this matter, the Landlords are also entitled to the **\$50.00** filing fee for the cost of this Application, pursuant to Section 72(1) of the Act. Therefore, the total amount awarded to the Landlords is **\$2,630.65**.

As the Landlords already hold the Tenants' **\$900.00** security deposit, I order the Landlords to retain this amount in partial satisfaction of the claim awarded, pursuant to Section 38(4) (b) of the Act. As a result, the Landlords are awarded the outstanding balance claimed in the amount of **\$1,730.65**.

Conclusion

The Tenants have breached the Act by not paying rent and causing damage to the rental unit. Therefore, I grant the Landlords a Monetary Order pursuant to Section 67 of the Act in the amount of **\$1,730.65**.

Copies of this order are attached to the Landlords' copy of this decision. This Order must be served on the Tenants and may then be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

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: March 05, 2015

Residential Tenancy Branch

