



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR, MND, MNSD & MNDC

Introduction

A hearing was conducted by conference call in the presence of the applicant and one of the respondents. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on KM, one of the respondents by mailing, by registered mail to where the respondent KM resides.

Preliminary Matters:

The landlord attempted to serve CM by mailing, by registered mail to the address on the Application for Dispute Resolution. CM does not reside at that address. KM has restraining order against him. I dismissed the claim against CM with liberty to re-apply as the landlord failed to prove sufficient service on CM.

The landlord has filed a Monetary Order worksheet increasing the claim to \$9328. However, he failed to amend the Application for Dispute Resolution. I determined it was not appropriate to proceed with the hearing of the increased claim as it would result in the denial of natural justice for the tenant as she would not have been given notice of the additional claims against her. The landlord was given a choice of proceeding with

the claim in the sum of \$7346.77 which was contained in the original application or having the within application dismissed with liberty to re-apply so that he could start against make his full claim. He stated he wished to proceed with the original application.

The landlord served a number of documents and photographs by mailing, by registered mail to where the tenant resides. The tenant testified she did not receive them. A search of the Canada Post Tracking service indicates Notification was left. I determined the tenant failed to pick up her registered mail and the landlord should not be prejudiced by the tenants failure to pick up the registered mail. I ordered that the hearing proceed.

Issue(s) to be Decided:

The issues to be decided are as follows:

- a. Whether the landlord is entitled to a monetary order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that last from May 1, 2008 to August 31, 2014. A new fixed term lease was entered into on August 21, 2015 that provided that the tenancy would end on January 31, 2015 and the tenants would have to vacate the rental unit at that time. The August 21, 2015 tenancy agreement provided that the tenant(s) would pay rent of \$2100 per month payable on the first day of each month. The tenants paid s security deposit of \$1100 on April 3, 2008. The tenancy ended on January 31, 2015.

Analysis

The Residential Tenancy Act provides the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential

property to which the tenant has access. The tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant and is liable to compensate the landlord for failure to do so. In some instances the landlord's standards may be higher than what is required by the Act. The tenant is required to maintain the standards set out in the Act. The tenant is not required to make repairs for reasonable wear and tear. The applicant has the burden of proof to establish the claim on the evidence presented at the hearing.

Monetary Order and Cost of Filing fee

With respect to each of the landlord's claims I find as follows:

- a. I determined the landlord is entitled to the sum of \$560 for the cost of cleaning. The tenant disputed the quantum of this claim. She testified she was in the hospital with one of her children at the end of January and wasn't able to clean to the extent she wanted. However, she estimated a fair cost would be \$150. After reviewing the photos I determined the landlord is entitled to the amount claimed in the sum of \$560.
- b. I determined the landlord is entitled to \$710 for the failure to pay all of the rent for January 2015.
- c. I determined the landlord is entitled to \$150 for the cost of garbage clean up and dump fees. I reduced this from what was claimed as the landlord failed to prove that all of the garbage was that of the tenants.
- d. I determined the landlord is entitled to \$180 for the cost of tile cleaning.
- e. I determined the landlord is entitled to \$349.65 for the cost of carpet cleaning.
- f. I dismissed the landlord's claim of \$2726 for the cost of replacing the carpet. The carpet was at least 15 years old and long past its use life.
- g. I determined the landlord is entitled to \$50 for the cost of lock replacement.
- h. I determined the landlord is entitled to \$85 for the cost of repairing the pocket door.

- i. I determined the landlord is entitled to \$27.95 for the cost of repairing the kitchen cupboard hinge.
- j. I dismissed the claim for the cost of backyard holes and patches as the landlord failed to prove the tenant caused this damage.
- k. I dismissed the claim for the cost of replacing the vacuum as the landlord failed to prove it was caused by the negligence of the tenant.
- l. I dismissed the claim of \$146.29 for the cost of replacing the shower door as the landlord failed to prove the damage was caused by the tenants.
- m. I dismissed the claim for the material and labour cost of replacing the toilets as the landlord failed to prove the damage was caused by the intentional or negligent acts of the tenants.
- n. I determined the landlord is entitled to \$100 for the cost of repairing the wall damaged by the tenant where they removed the television.
- o. I determined the landlord is entitled to \$350 for the cost of painting and repair work to the stairway walls, bedroom and garage. I determined the tenants had damaged it to an extent that exceeded reasonable wear and tear.
- p. I dismissed the claim for the cost of garage floor repainting as the landlord has not completed the work and has not provided sufficient evidence to establish the tenants were at fault.
- q. I dismissed the landlord's claim of \$1000 for loss of revenue as the landlord failed to prove work was necessitated by the fault of the tenants rather than reasonable wear and tear.

In summary I determined the landlord has established a monetary claim against the tenant(s) in the sum of \$2562.60 plus the \$100 filing fee for a total of \$2662.60.

Security Deposit

I determined the security deposit plus interest totals the sum of \$1112.31. I determined the landlord is entitled to retain this sum. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$1550.29.

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It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court 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: April 21, 2015

Residential Tenancy Branch

