



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenants for the cost of this application.

The tenants and landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The parties confirmed receipt of evidence. 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.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

The parties agreed that this month to month tenancy started on December 01, 2009 and ended on May 31, 2014. Rent for this unit was \$900.00 per month due on the 1st of each month. The tenants' security deposit has been returned by the landlord. The parties had taken part in a previous hearing for which the file number is recorded on the front page of this decision.

The landlord testified that according to the *Act* the tenants must vacate the rental unit by 1.00 p.m. on May 31, 2014. The tenants left some furniture in the unit and spoke about not wanting to take the furniture to their new unit due to the possibility of bedbugs in the furniture. The tenant informed the landlord's manager that they were giving the furniture away to other tenants in the building.

The landlord testified that the tenants left this furniture in the unit and it was still there on June 02, 2014 when the landlord's construction manager went to the unit. The landlord testified that they were doing some minor work on the unit and it was re-rented on June 15, 2014.

The landlord testified that as the tenants did not remove all their furniture from the unit it prevented the landlord from re-renting the unit for June 01, 2014. The landlord had originally sought to recover the full months' rent for June; however as the unit was re-rented on June 15, 2014 the landlord reduced their claim to \$450.00.

The landlord testified that when the tenant gave notice to end the tenancy the landlord already had advertisements out for units in the building. The landlord did have someone to move into the unit on June 01, 2014 but as the tenants had left some furniture in the unit these new tenants had to be rerouted to another unit.

The tenant disputed the landlord's claims. The tenant testified that the landlord's manager (J) was OK with the tenant leaving these few items of furniture in the unit as some of it was going to another tenant in the building. The tenant testified that she told J that he could keep some furniture or give it away to other tenants. J asked the tenant to leave the two lamps and the office chair and he would get rid of them.

The tenant testified that it was the J who told the tenant they would meet up on June 02, 2014 as he was not working at the weekend. The tenant was to return the keys to him on that date and complete the move out inspection. The tenant testified that J said it

would not matter as the landlord was going to be renovating the unit. The tenant agreed the unit was re-rented around the middle of June, 2014. The tenant testified that when she returned to the unit on June 02, 2014 the other tenant came to collect the wardrobe and couch and had asked J if he could help move it to his unit downstairs. J was too busy to help and said it was that tenant's responsibility to remove it.

The tenant asked the landlord why he did not remove the furniture and just send the bill to the tenant. The landlord responded that it is the tenants' responsibility to remove all their belongings from the unit. The tenant asked the landlord why J told the tenant it was alright to leave the furniture until June 02, 2014 otherwise the tenant could have removed it when she moved out. The landlord responded that J was his construction manager and he does not know why J told the tenant this.

The Arbitrator asked the landlord why he did not call J as a witness. The landlord responded that J no longer works for the landlord.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. In this matter the landlord has the burden of proof to show that the tenant did not have permission from the landlord's construction manager to leave some furniture in the unit until June 02, 2014. Furthermore, I am not satisfied that the landlord made reasonable attempts to re-rent the unit for June 01, 2014 and could have removed any items left in the rental unit as required under part five of the Residential Tenancy Regulations which deals with abandonment of personal property.

The tenant testified that the landlord's manager was not working over the weekend and so delayed the handing in of the keys and the move out inspection until June 02, 2014; The landlords manager also told the tenants that the landlord was going to be doing some minor work to the unit; therefore, I am not satisfied that the unit would have been available to re-rent for June 01, 2014. The landlord agreed that the unit was going to

have some minor work done on it and I am not satisfied that the unit would have been available to re-rent for June 01, 2014.

Consequently, it is my decision that the landlord has not shown that the tenant is responsible for a loss of rent for the first 14 days of June, 2014 and the landlord's application to recover rent of \$450.00 is dismissed.

As the landlord's claim has no merit I find the landlord must bare the cost of filing their own application.

Conclusion

The landlord's application is dismissed without leave to reapply.

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: May 04, 2015

Residential Tenancy Branch

