



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

FF, MND, MNDC, MNR, MNSD, O, CNQ, CNR, ERP, OPT, RP

Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant(s), and one brought by the landlord(s). Both files were heard together.

The tenant's application was a request to cancel a Notice to End Tenancy, a request for emergency repairs, a request for an Order of Possession, a request for a repair order, and a request for return of all or part of the security/pet deposit.

The landlord's application was a request for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, a request for a monetary order for \$3825.00 for debt and damages, a request to retain the security/pet deposit towards the claim, and a request for recovery of the \$50.00 filing fee.

Issue(s) to be Decided

By the date of today's hearing the tenants had fully vacated the rental unit and had returned possession of the unit to the landlord, and are not requesting an order allowing them to move back into the unit.

Therefore the request for an Order of Possession and repair orders are no longer relevant to today's hearing.

The remaining issues to be decided are whether or not the landlord has established monetary claim against the tenant for debt and damages totaling \$3825.00 or whether the tenant has established a claim for return of all or part of their pet deposit.

Background and Evidence

This tenancy began on October 1, 2013 for a fixed term expiring October 1, 2015, and with a monthly rent of \$1200.00.

No move-in inspection report was done at the beginning of the tenancy.

The tenants paid a security deposit of \$600.00 on September 16, 2013 and paid a pet deposit of \$200.00 on October 1, 2013.

The tenants subsequently gave notice to end the tenancy by May 15, 2015, well before the end of the fixed term.

The landlords testified that:

- When the tenants notified them that they would be ending the tenancy before the end of the fixed term they immediately started advertising the unit for rent.
- The tenants notice had been for May 15, 2015 and therefore they attempted to re-rent the unit for June 1, 2015, to try and mitigate any loss.
- They were able to find tenants that were willing to rent the unit for June 15, 2015 and therefore they accept them as tenants as they were not sure if they would be able to find a tenant to take it for June 1, 2015.
- The tenants never paid the April 2015 rent, and although the tenant vacated in May 2015 they also lost rental revenue for May 2015, and half of June 2015.
- There therefore requesting that the tenants be held liable for that outstanding rent and lost rental revenue.
- The tenants also left the rental unit in need of cleaning and repairs and although the cost of that cleaning and repairs is well in excess of the amount held for security deposit and pet deposit, they are only asking for an order for equivalent to the amount of the \$800.00 security/pet deposit held.
- They also had one NSF cheque charge of \$25.00.

The landlords are therefore requesting a monetary order as follows:

| | |
|-------------------------------|-----------|
| April 2015 rent outstanding | \$1200.00 |
| May 2015 lost rental revenue | \$1200.00 |
| June 2015 lost rental revenue | \$600.00 |
| Damages and cleaning | \$800.00 |
| NSF check charge | \$25.00 |
| Filing fee | \$50.00 |
| Total | \$3875.00 |

The tenants testified that:

- Although they had inform the landlord that they would be fully out of the rental unit by May 15, 2015, the landlord was subsequently informed when they did vacate the rental unit on May 1, 2015 and therefore they believe the landlord had sufficient time to re-rent the unit for June 1, 2015.

- There was no move-in inspection report done at the beginning of the tenancy and when they moved into the rental unit the walls in the unit were in very poor condition.
- They did absolutely no damage to the rental unit, other than breaking the laundry room door. They therefore do not believe they should be paying anything for damages or cleaning.

In response to the tenant's testimony the landlords testified that:

- They are not claiming for any the normal wear and tear to the walls of the rental unit, however during the tenancy the tenants had kicked or punched holes in the walls and had not properly repair that damage.
- The female tenant had phoned and texted them and informed them of the holes in the walls and stated that she would be repairing those holes.

Analysis

The tenants have admitted that they did not pay the April 2015 rent and therefore I allow that portion of the claim.

Further, since the tenants had originally informed the landlords that they would not be out of the rental unit until May 15, 2015 it is my decision that the tenants are also liable for lost rental revenue for the month of May 2015 as the landlord was unable to re-rent the unit for that month.

It is also my decision that the tenants are liable for lost rental revenue for one half of the month of June 2015 because, although the tenant believes the landlord could have re-rented the unit for June 1, 2015, it's my decision that it was reasonable for the landlord to accept the tenant for June 15, 2015 rather than risk attempting to re-rent the unit for June 1, 2015 and possibly not get a tenant at all.

As far as the landlord's \$800.00 claim for damages is concerned, it is my decision that the tenants are liable for damages in excess of \$800.00. Even if I accept the tenants claim that they did no damage to the walls, the tenant has admitted that he damaged the laundry room door and the estimate to repair/replace that door exceeds \$800.00.

Under section 32 of the Residential Tenancy Act the tenants had an obligation to repair the damages they caused and since they failed to do so they are liable for the landlord's cost of those repairs.

Further, the tenants have admitted that they did not return one of the Door fobs and the cost of the replacement fob is \$100.00.

The landlords were also required to pay a \$100.00 moveout fee to the strata Corporation which is the responsibility of the tenants to pay.

The landlords have also shown that the tenants had an NSF cheque and I therefore allow the \$25.00 NSF fee.

I also allow the landlords request for recovery of their \$50.00 filing fee.

I have allowed the landlords full claim of \$3875.00 and I therefore Order pursuant to section 38 of the Residential Tenancy Act that the landlords may retain the full security/pet deposit of \$800.00 and pursuant to section 67 of the Residential Tenancy Act, I have issued a monetary order for the tenants to pay \$3075.00 to the landlords.

Conclusion

I have issued a monetary order in the amount of \$3075.00.

The tenant's application is dismissed in full without leave to re-apply.

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 28, 2015

Residential Tenancy Branch

