



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing was convened by way of conference call concerning an amended application made by the landlord for a monetary order for unpaid rent or utilities, for an order permitting the landlord to keep all or part of the pet damage deposit or security deposit, and to recover the filing fee from the tenants for the cost of the application.

An agent for the landlord company attended the hearing and gave affirmed testimony, however despite being individually served with the Landlord's Application for Dispute Resolution, evidentiary material and notice of this hearing, no one for the tenants attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and the only participant who joined the call was the landlord's agent. The landlord's agent testified that each tenant was served by registered mail on February 20, 2015 at a forwarding address provided by the tenants but both packages have been returned unclaimed. Copies of the returned envelopes showing that date and tracking numbers assigned by Canada Post have been provided and I am satisfied that the tenants have been served in accordance with *the Residential Tenancy Act*.

All evidence and testimony provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenants for unpaid rent?
- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord's agent testified that this fixed term tenancy began on July 1, 2014 and was to expire on June 30, 2015 however the tenants moved out of the rental unit on December 17, 2014 in accordance with a notice to end tenancy for unpaid rent issued by the landlord.

Rent in the amount of \$1,475.00 per month was payable in advance on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$737.50 and no pet damage deposit was collected. A copy of the tenancy agreement has been provided.

The tenants are currently in arrears of rent the sum of \$2,950.00 for November and December, 2014. The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, a copy of which has been provided. The notice is dated December 4, 2014 and contains an expected date of vacancy of December 14, 2014 for unpaid rent in the amount of \$2,950.00 that was due on December 1, 2014. The tenants have not paid the rent and the landlord claims that amount from the tenants.

The tenancy agreement also provides for late fees in the amount of \$25.00 each and for rent payments returned for any reason. The landlord's agent testified that the tenants' rent was paid by an e-transfer and the transfers for November and December, 2014 were returned by the financial institution for insufficient funds, however no proof of the amount charged to the landlord has been provided.

The parties had completed a move-in and a move-out condition inspection report and on move-out the tenants agreed in writing to the landlord keeping an amount from the security deposit for cleaning the rental unit and cleaning the carpets and the balance being applied to rental arrears. The rental unit is a big 4 bedroom split level home and the carpet cleaning cost was \$236.25 and interior cleaning costs were \$70.00. Copies of invoices have been provided. The landlord wishes to apply the balance of the security deposit in the amount of \$431.25 to unpaid rent. A copy of the condition inspection report has been provided which is dated December 17, 2014 and also contains a forwarding address for the tenants.

The landlord claims \$2,950.00 for unpaid rent, \$50.00 for late fees, \$50.00 for the returned e-transfers, carpet cleaning in the amount of \$236.25, \$70.00 for cleaning the rental unit, and \$50.00 for recovery of the filing fee, to be set off from the amount of the security deposit.

Analysis

I have reviewed the material of the landlord, and in the absence of any evidence from the tenants, I am satisfied that the landlord has established a monetary claim for unpaid rent in the amount of \$2,950.00 for November and December, 2014 rent.

The regulations to the *Residential Tenancy Act* specify that a landlord may claim a late fee of no more than \$25.00 if such a clause is contained in the tenancy agreement, and I find that it is and the landlord has established late fees totalling \$50.00. With respect to returned e-transfer payments, the regulations specify that a landlord may claim the amount charged by a financial institution, and the landlord has not provided any evidence of that.

I have reviewed the move-out condition inspection report and I am satisfied that the tenants agreed in writing that the landlord could keep the security deposit for carpet cleaning and interior cleaning costs and the balance could be applied to unpaid rent. The condition inspection report does not indicate an amount for either of those costs however the landlord has provided proof of those costs totalling \$306.25.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee.

In summary, I find that the landlord has established a claim in the amount of \$2,950.00 for unpaid rent, \$50.00 for late fees, \$236.25 for carpet cleaning, \$70.00 for cleaning the rental unit, and \$50.00 for recovery of the filing fee, for a total of \$3,356.25.

I hereby order the landlord to keep the \$737.50 security deposit in partial satisfaction of the claim and I grant a monetary order in favour of the landlord for the difference in the amount of \$2,618.75.

Conclusion

For the reasons set out above, I hereby order the landlord to keep the \$737.50 security deposit and I grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$2,618.75.

This order is final and binding and may be enforced.

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 19, 2015

Residential Tenancy Branch

