



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order authorizing him to retain the security deposit. Both parties participated in the conference call hearing.

The landlord testified that he has already applied the security deposit to a monetary order he was awarded on August 8, 2014. I therefore consider the claim for an order against the security deposit to have been withdrawn.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that the tenancy began on April 1, 2013 and that the tenants were obligated to pay \$843.00 in rent in advance on the first day of each month. They further agreed that the tenancy ended on September 15, 2014 when the tenants were removed from the unit by a bailiff acting on a writ of possession.

The landlord testified that the tenants failed to clean the unit at the end of the tenancy. He claimed that after the bailiff removed the tenants' belongings, there was damage to the flooring where a pet cage had been placed and where a water cooler had stood and there was a hole in the living room wall the size of a fist. He further testified that he had to wash down the entire unit and repaint and wash the floors 3 times. The landlord seeks an award of \$900.00 which represents 36 hours of cleaning and \$103.60 which represents materials purchased to perform the cleaning.

The tenants testified that there were no damages to the rental unit at the end of the tenancy and stated that they would have cleaned the unit, but they were not permitted to re-enter after the bailiff removed their belongings.

The parties agreed that the landlord had an order of possession which was effective August 31, 2014 and that the tenants did not vacate the unit pursuant to that order. He testified that he spent \$2,710.26 to retain a bailiff to remove the tenants and their belongings.

The tenants agreed that the landlord had to hire a bailiff and did not dispute the amount claimed for bailiff fees. Rather, they insisted that had the landlord just been patient, a bailiff would not have been required as they were in the process of moving out when the bailiff arrived.

The parties agreed that the landlord is entitled to \$843.00 in rent for the month of September.

The landlord also seeks to recover the \$50.00 filing fee paid to bring his application.

Analysis

In order to be successful in the claim for cleaning, the landlord has to prove that the tenants breached their obligation to leave the rental unit reasonably clean. The landlord provided no evidence whatsoever to support his testimony that the rental unit required cleaning to bring it up to the standard required by the Act. Without seeing photographs, a condition inspection report or witness statements, it is not possible for me to determine whether the unit was reasonably clean. Although the tenants acknowledged that they did not clean the unit at the end of the tenancy, it is entirely possible that even without cleaning the unit, it was already at the standard required by the Act. With respect to repairs, the tenants denied that any repairs were required and the landlord provided no evidence to corroborate his claim that there was damage. I am unable to find that either cleaning or repairs were required and I therefore dismiss this claim.

The tenants agreed that they did not vacate the rental unit in accordance with the order of possession and they did not dispute that the landlord paid a bailiff to remove them and their belongings. They also did not dispute the amount claimed by the landlord. Although the tenants claimed that the landlord should have been patient and did not need to hire a bailiff, the fact remains that the tenants were in breach of their obligation to comply with the arbitrator's order. They chose to ignore the order of possession which forced the landlord to proceed to enforce it. I find that the tenants must be held liable for the cost of the bailiff. Although the landlord did not submit a copy of the

invoice, the tenants did not dispute the amount claimed and I have no reason to disbelieve the landlord's testimony that this is the amount paid to the bailiff as it seems reasonable. I therefore award the landlord \$2,710.26.

As the parties agreed that the landlord is entitled to rent for September, I award him \$843.00.

As the landlord has been substantially successful in his claim, I find he should recover the \$50.00 filing fee paid to bring his application and I award him \$50.00.

The landlord has been awarded a total of \$3,603.26 and I grant him a monetary order under section 67 for this sum. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order for \$3,603.26.

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

