



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ANSON REALTY LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF, O

Introduction

On January 13, 2015 an ex parte telephone conference call was conducted with the Landlord to hear the Landlord's request to serve documents for this monetary claim by e-mail to the Tenant. The Arbitrator who had conduct of the Landlord's substituted service application allowed the Landlord to serve documents for this hearing to the Tenants by e-mail.

The Landlord applied for a Monetary Order for: damage to the rental unit; unpaid rent; to keep the Tenants' security deposit; money owed or compensation for damage or loss under the *Residential Tenancy Act* (the "Act"), regulation or tenancy agreement; to recover the filing fee; and, for "Other" issues of which none were raised in the hearing.

An agent for the Landlord (the "Landlord") appeared for the hearing and provided affirmed testimony as well as documentary evidence in advance of the hearing. There was no appearance by the Tenants during the 30 minute duration of the hearing or any submission of evidence prior to the hearing. Therefore, I turned my mind to the service of documents for this hearing by the Landlord.

The Landlord provided a copy of the email sent to each of the Tenants to both email addresses, which the Landlord testified were e-mail addresses she had previously used to communicate with the Tenants. The Landlord testified she had not had the e-mails returned back to her. As the Landlord had already been granted authority under the Act to serve the documents for this hearing by email, I find the Landlord met the service requirements of Section 71(1) of the *Residential Tenancy Act* (the "Act").

The Landlord explained that she had submitted a copy of the CIR and revised invoices into evidence which was not before me. The Landlord explained that these documents had been served to the Tenants with her Application. Pursuant to Rule 3.17 of the Rules of Procedure I allowed the Landlord to fax these to me after the hearing had been concluded. The hearing continued to hear the undisputed evidence of the Landlord.

Issue(s) to be Decided:

- Did the Tenants end the tenancy in accordance with the Act?
- Is the Landlord entitled to loss of rent for July 2015?
- Is the Landlord entitled to costs associated with damage, cleaning and carpet cleaning of the rental suite?
- Is the Landlord entitled to keep all of the Tenants' security deposit in partial satisfaction of the monetary claim?

Background and Evidence

The Landlord testified that this tenancy started on September 6, 2012 for a fixed term tenancy until September 30, 2013, after which the tenancy continued on a month to month basis. Rent in the amount of \$2,650.00 was payable by the Tenants on the first day of each month. The Tenants paid a \$1,545.00 security deposit at the start of the tenancy which the Landlord still retains. The Landlord completed a move in Condition Inspection Report (the "CIR") at the start of the tenancy.

The Landlord testified that on June 24, 2015 she received an email from the Tenants informing her that they were vacating the rental unit on June 30, 2015. The Landlord testified that she immediately placed an advertisement on line for the re-rental of the unit for July 2015. The Landlord provided a copy of this into evidence prior to the hearing. However, despite a few showings, the Landlord was unable to re-rent the unit for July 2015 due to the short time period of the notice. As a result, the Landlord claims loss of rent in the amount of **\$2,650.00**.

The Landlord testified that the Tenants vacated the rental unit on June 30, 2015 without replying to her about meeting to conduct the move out condition inspection and returning the keys. The Tenants also failed to provide a forwarding address in writing. As a result, the Landlord completed the move out CIR in the absence of the Tenants and provided this into evidence after the hearing.

The Landlord testified that the Tenants had damaged a bedroom door for which she provided a photograph, which indicated extensive damage to the door handle area. As a result, the Landlord had to replace the damaged door at a cost of **\$283.50** for which an invoice was provided to verify the loss.

The Landlord testified that although the Tenants left their rental unit door keys behind, they failed to leave the mail box keys. The Landlord explained that she tried to use her copy of the mail box key but it was not working which meant that the Tenants had

changed the mailbox lock. As a result, the Landlord spent **\$88.02** rekeying the mail box and provided the invoice related to this cost.

The Landlord testified that the Tenants failed to clean the rental unit at the end of the tenancy and this included shampooing the carpets, cleaning the kitchen cupboards and appliances, cleaning the window blinds, and washing the floors and walls. The Landlord provided photographic evidence to support her testimony that the Tenants had failed to clean the rental unit, including the CIR. For the cleaning, the Landlord claims **\$252.00** as evidenced by an invoice. The total amount the Landlord claims from the Tenants is **\$3,273.52**.

Analysis

In relation to the Landlord's claim for unpaid rent for July 2015, Section 45(1) requires a tenant ending a periodic (month to month) tenancy to provide to the landlord written notice of at least one full rental month. Therefore, if the Tenants wanted to end the tenancy for the end of June 2015, the Tenants would have been required to serve the Landlord with a written notice no later than May 31, 2015.

However, the Tenants failed to give the Landlord sufficient time as required by the Act to end the tenancy. I find the Landlord attempted to mitigate loss straight away by advertising the rental unit and I accept that despite the efforts, the Landlord lost July 2015 rent which the Tenants are now responsible for. Therefore, the Landlord is awarded July 2015 rent in the amount **\$2,650.00**.

Section 37(2) (a) of the Act requires a tenant to leave a rental suite reasonably clean and undamaged at the end of a tenancy. In addition, Section 21 of the *Residential Tenancy Regulation* allows a CIR to be considered as evidence of the state of repair and condition of the rental unit, unless a party has a preponderance of evidence to the contrary. The Landlord's photographic evidence, oral testimony, and the CIR satisfy me that the Tenants damaged the bedroom door and failed to clean the rental suite as required by the Act. The Tenants have failed to provide evidence to the contrary of the CIR and the Landlord verified the losses claimed through revised invoices provided after the hearing. Accordingly, I award the amount claimed by the Landlord for the suite cleaning and damage to the door for a total of **\$535.50**

Section 37(2) (b) of the Act requires a tenant to provide the landlord with all keys to the rental unit. In respect to the costs claimed by the Landlord for changing the mail box key, I accept the Landlord's undisputed testimony and invoice to verify this cost that the

Tenant failed to return this key as required by the Act. As a result, the Landlord is awarded **\$88.02** for the replacement mail lock and key.

As the Landlord has been successful in this claim, the Landlord is also entitled to recover from the Tenants the **\$50.00** filing fee for the cost of this Application. Therefore, the total amount awarded to the Landlord is **\$3,323.52**.

As the Landlord already holds \$1,545.00 in the Tenants' security deposit, I order the Landlord to retain this amount in partial satisfaction of the claim awarded, pursuant to Section 72(2) (b) of the Act. As a result, the Landlord is issued with a Monetary Order for the remaining balance in the amount of **\$1,778.52**. This order must be served on the Tenants and may then be filed in the Provincial Court (Small Claims) and enforced as an order of that court if the Tenants fail to make payment.

Conclusion

The Tenants failed to give proper notice to end the tenancy and failed to leave the rental unit reasonably clean and undamaged. The Landlord may keep the Tenants' security deposit and is issued with a Monetary Order for the outstanding balance of the monetary claim in the amount of \$1,778.52.

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: July 13, 2015

Residential Tenancy Branch

