



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing was convened in response to applications by the landlords and the tenant.

The landlords' application is seeking orders as follows:

1. For a monetary order for loss of rent;
2. For a monetary order for damages;
3. To keep all or part of the security deposit; and
4. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. Return all or part of the security deposit

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Are the landlords entitled to a monetary order for loss of rent?

Are the landlords entitled to monetary compensation for damages?

Are the landlords entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The parties agreed that the tenancy began on October 1, 2013. Rent in the amount of \$440.00 was payable on the first of each month. The tenant paid a security deposit of \$220.00. The tenancy ended on May 31, 2015.

The landlords claim as follows:

| | | |
|----|----------------------------------|-----------------|
| a. | Loss of rent for June 2015 | \$460.00 |
| b. | Dumping cost for two televisions | \$ 60.00 |
| c. | Change electrical outlet | \$ 30.00 |
| d. | Fix and paint room | \$100.00 |
| e. | Filing fee | \$ 50.00 |
| | Total claimed | \$700.00 |

Loss of rent for June 2015

The landlord testified that the tenant did not give sufficient notice to end the tenancy as they did not received their notice until May 1, 2015. The landlord stated that because of the late notice they were unable to find a new tenant for June 2015. The landlords seek to recover loss of rent for June 2015.

The tenant testified that the notice was provided to the landlord on April 30, 2015. The tenant stated that on May 19, 2015, the parties were at a dispute resolution hearing at the hearing the parties agreed to end the tenancy on May 31, 2015. The tenant stated that they complied with the Act and the agreement and vacated on May 31, 2015 and are not responsible for any loss of rent.

Dumping cost for two televisions

At the outset of the hearing the tenant agreed to pay the cost for disposing of the televisions. The tenant stated that they had authorized the landlord at the end of the tenancy that they could keep that amount.

Change electrical outlet

The landlord testified that the tenant filled the electrical outlet with silicone, which had to be placed as the tenant indicated that they were afraid of the electrical frequency. The landlords seek to recover the amount of \$30.00. Filed in evidence is a photograph which showed an electrical outlet filled with a substance.

The tenant testified that they did not fill the electrical outlet with any substance and the outlet was like that when they moved into the rental unit.

Fix and paint room

The landlord testified that when the tenant vacated they had to repaint the room as there was lots of damage to the walls. The landlord stated there were many holes, and white paint had been painted on the grey paint. The landlord stated that it took them 3 days to make the repairs. The landlords seek to recover the amount of \$100.00. Filed in evidence are photographs.

The tenant testified that they deny causing any damage to the walls. The tenant stated that the white spots in the photographs appear to be plaster that is used before the walls are painted.

Tenant's application

The tenant has applied for return of the security deposit less the amount agreed to for the disposal of the television. As the landlords' application was to retain the security deposit the issue of the security deposit will be dealt with at the conclusion of the landlord's application.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Landlords' application

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord have the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Loss of rent for June 2015

Although each party has provided a different version as to when the tenant gave notice to end the tenancy, I have reviewed the interim decision made on May 19, 2015, at a previous hearing. I find the parties agreed at the hearing that the tenancy would end on May 31, 2015. Therefore, I find the landlords are not entitled to loss of rent as a result of not finding a new tenant for June 2015, as the tenancy legally ended on May 31, 2015. Therefore, I dismiss this portion of the landlords' claim

Dumping cost for two televisions

At the outset of the hearing the tenant agreed to pay the dispose fee of the televisions. Therefore, I find the landlords are entitled to recover the amount of **\$60.00**.

Change electrical outlet

In this case, the tenant denied filling the electrical outlet with silicone. Although the landlords have provided a photograph of the electrical outlet, there is no evidence of the condition of the electrical outlet at the beginning of the tenancy, such as a move-in condition inspection report. I find the landlords have failed to provide sufficient evidence that the damage was caused by the tenant. Therefore, I dismiss this portion of the landlords' claim

Fix and paint room

In this case, the evidence of the landlords was that the tenant caused damage to the walls, and painted white spots on the walls. The tenant denied painting white spots on the walls or causing damage. The evidence of the tenant was that the white spots in the photographs appear to be plaster that was used by the landlords. I find both versions are probable and without further evidence from the landlords, such as a move-in conditional inspection report that they have failed to prove the damage was caused by the tenant. Therefore, I dismiss this portion of the landlords' claim.

I find that the landlords have established a total monetary claim of **\$60.00** comprised of the above described amount. As that was an amount that the tenant agreed to prior to the landlord filing their application and the landlord was not successful with the balance of their claim. I find the landlords are not entitled to recover the filing fee from the tenant.

I order that the landlords to retain the amount of **\$60.00** from the tenant's security deposit of **\$220.00** in full satisfaction of the claim and I grant the tenant an order under section 67 of the Act for the balance due of **\$160.00**.

Should the landlords' not comply with my Order, this order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlords are granted a monetary order and may keep a portion of the security deposit in full satisfaction of the claim and the tenant is granted a formal order for the balance due of their security deposit is the above noted amount.

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: September 25, 2015

Residential Tenancy Branch

