



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MND, MNDC, MNSD, FF
ERP, LRE, MNSD, FF

Introduction

This hearing was scheduled in response to 2 applications:

- i) by the landlord for a monetary order as compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of all or part of the security deposit / and recovery of the filing fee; and
- ii) by the tenants for an order instructing the landlord to make emergency repairs for health or safety reasons / an order suspending or setting conditions on the landlord's right to enter the rental unit / return of all or part of the security deposit / and recovery of the filing fee.

The landlord attended and gave affirmed testimony. Neither tenant appeared.

The landlord testified that he was not served with the tenants' application for dispute resolution and notice of hearing (the "hearing package"). The landlord also testified that he served both tenants with his hearing package by way of *Xpresspost*. Evidence submitted by the landlord includes the Canada Post tracking numbers for the *Xpresspost*, and the Canada Post website informs that both packages were "unclaimed by recipient."

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenants have been duly served in accordance with sections 89 and 90 of the Act which speak, respectively, to **Special rules for certain documents** and **When documents are considered to have been received**.

Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to the landlord's direct request application made earlier, a decision was issued by date of April 28, 2015. Pursuant to the decision, an order of possession and a monetary order reflecting compensation for unpaid rent for April 2015 were issued in favour of the landlord.

Further to the application itself, there is no documentary evidence before me from the tenants. Documentary evidence before me is therefore almost exclusively limited to what has been submitted by the landlord.

Pursuant to a written tenancy agreement the fixed term of tenancy is from October 01, 2014 to September 30, 2015. Monthly rent of \$1,250.00 is due and payable in advance on the first day of each month, and a security deposit of \$625.00 was collected. A move-in condition inspection report was completed with the participation of both parties.

The order of possession was not ultimately served on the tenants, and they vacated the unit sometime during the latter half of April 2015. Following 24 hour notice given by the landlord, a move-out condition inspection was completed by the landlord on April 26, 2015. The tenants did not attend in order to participate in the inspection or the completion of the move-out condition inspection report.

By way of registered mail the tenants returned the unit keys to the landlord in early May 2015. The tenants provided their forwarding address on the registered mail, which is the address used by the landlord for service of the hearing package. This address is also the address shown by the tenants on their application for dispute resolution.

Both parties filed their respective applications for dispute resolution with the Residential Tenancy Branch on May 12, 2015.

Following online advertising for new renters which the landlord testified was begun in May 2015, new renters were found for the unit effective from June 01, 2015.

Analysis

Based on the affirmed / undisputed testimony of the landlord, and the documentary evidence submitted by the landlord, which includes several receipts, the various aspects of the respective applications and my related findings are set out below.

TENANTS

Order instructing the landlord to make emergency repairs for health or safety reasons
Order suspending or setting conditions on the landlord's right to enter the rental unit

As the tenancy has now ended, and as the tenants did not attend the hearing scheduled in response to applications by both parties, both of these aspects of the tenant's application are dismissed.

\$625.00: *repayment of the security deposit*

The disposition of the security deposit is decided and addressed more fully below. In summary, this aspect of the tenants' application is dismissed.

\$50.00: *recovery of the filing fee*

As the tenants have not succeeded with the principal aspects of their application, their application to recover the filing fee is hereby dismissed.

LANDLORD

\$363.30: *removal of wall unit, beds and mattress(es) left behind by the tenants*

\$250.00: *general unit cleaning*

\$87.17: *"rug doctor" rental*

\$152.50: *carpet cleaning*

\$50.00: *strata move-out fee*

Sub-total: **\$902.97**

Again, based on the affirmed / undisputed testimony of the landlord, and the documentary evidence submitted by the landlord, I find that the landlord has established entitlement to the full amount claimed above.

\$167.82 (\$66.93 + \$100.89): *paint*

\$152.50: *painting of baseboards*

\$175.00: *painting doors (no receipts in evidence)*

\$750.00: *painting walls (no receipts in evidence)*

Sub-total: \$1,245.32

It is understood that portions of the unit painted had previously been painted approximately 3 years prior to the time when they were repainted following the end of this tenancy. Additionally, it is understood that 2 sets of renters had occupied the unit prior to the start of the subject tenancy. Further, in relation to this aspect of the application, the attention of the parties is drawn to Residential Tenancy Policy Guideline # 40 which speaks to the "Useful Life of Building Elements," and provides that the useful life of interior paint is 4 years. In consideration of all the foregoing, and in light of the absence of receipts for labour required to paint the doors and walls, I find that the landlord has established entitlement limited to **\$124.53**, or 10% of the total claimed.

\$1,250.00: *unpaid rent for April 2015*

A monetary order has already been issued in favour of the landlord with respect to unpaid rent for April 2015. Accordingly, there is no requirement that I give any further consideration to this aspect of the application.

\$1,250.00: *Loss of rental income for May 2015*

As above, based on the affirmed / undisputed testimony of the landlord, I find that the landlord undertook to mitigate the loss of rental income by advertising for new renters in a timely fashion, following the departure of the tenants from the unit before the date shown in the tenancy agreement as the end of the fixed term tenancy. In the result, I find that the landlord has established entitlement to the full amount claimed.

\$50.00: *filing fee*

As the landlord has generally succeeded with the principal aspects of the application, I find that the landlord has also established entitlement to recovery of the filing fee.

Sub-total entitlement: \$2,327.50

I order that the landlord retain the security deposit of **\$625.00**, and I grant the landlord a **monetary order** for the balance owed of **\$1,702.50** (\$2,327.50 - \$625.00).

Conclusion

The tenants' application is hereby dismissed in its entirety.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$1,702.50**. Should it be necessary, this order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

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 30, 2015

Residential Tenancy Branch

