



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MND, MNDC, MNSD, FF

Introduction

This hearing concerns an application by the landlords 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 pet damage deposit / and recovery of the filing fee. The landlords attended and gave affirmed testimony. Neither tenant appeared.

The landlords testified that the application for dispute resolution and the notice of hearing (the “hearing package”) was served on each of the tenants by way of registered mail. Evidence submitted by the landlords includes the Canada Post tracking numbers for the registered mail. The address used for service on female tenant “LG” was the address provided by her and for her after the end of tenancy, and the Canada Post website informs that the package was “successfully delivered” on May 12, 2015.

The address used for service on male tenant “EG” was also the address provided by female tenant “LG” for her after the end of tenancy, and the Canada Post website informs that the package was “unclaimed by recipient” and “returned to sender.”

In view of the marital breakdown which was identified by the tenants as their reason for ending the tenancy, I am unable to find that the address used for service on male tenant “EG” satisfies the requirements of service pursuant to section 89 of the Act, which addresses **Special rules for certain documents**. In the result, the landlords’ application naming male tenant “EG” as a respondent must be dismissed with leave to reapply. However, based on the documentary evidence and the affirmed / undisputed testimony of the landlords, I find that female tenant “LG” has been duly served in accordance with section 89 of the Act.

Issue(s) to be Decided

Whether the landlords are entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the fixed term of tenancy is from December 01, 2014 to November 30, 2015. Monthly rent of \$1,650.00 is due and payable in advance on the first day of each month. A security deposit of \$825.00 and a pet damage deposit of \$200.00 were collected. A move-in condition inspection was completed with the participation of both parties.

Arising from what they described as a “marital breakdown,” by letter to the landlords dated March 27, 2015 the tenants gave notice of their intent to end tenancy effective April 30, 2015. As a result of advertising undertaken by the landlords, new renters were found effective from May 01, 2015.

A move-out condition inspection was begun with the participation of both parties on April 30, 2015. However, neither tenant remained in the unit for the full completion of the inspection, and the move-out condition inspection report was completed by the landlords. By email dated May 01, 2015 female tenant “LG” provided the landlords with her forwarding address. There is no record of a forwarding address having been provided either by, or for male tenant “EG.”

The landlords found that the unit required extensive cleaning and certain repairs. Despite this, the new renters began moving their possessions into the unit on May 01, 2015. In addition to cat hair, odours and stains from cat urine led to many hours being spent cleaning and making repairs in order to achieve an appropriate standard of cleanliness in the unit. The landlords testified that the new renters have filed their own application for dispute resolution, seeking compensation from the landlords which arises broadly from the stench of cat urine and the otherwise unsatisfactory condition of the unit at the start of their tenancy. A hearing is scheduled to be held in March 2016.

As to the tenancy which is the subject of this particular dispute, the landlords filed their application for dispute resolution on May 06, 2015.

Analysis

At the outset, the attention of the parties is drawn to section 37 of the Act which addresses **Leaving the rental unit at the end of a tenancy**, in part:

- 37(2) When a tenant vacates a rental unit, the tenant must
- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and

- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to an within the residential property.

Based on the affirmed / undisputed testimony of the landlords, in addition to the landlords' documentary evidence which includes, but is not limited to, receipts, photographs, as well as comparative results of move-in and move-out condition inspection reports, and in consideration of the relevant statutory provisions, the various aspects of the landlords' claim and my findings are set out below. No documentary evidence was submitted by the tenants.

\$200.00: *(4 hours x \$25.00 per hour x 2 persons) cleaning at the unit*

\$350.00: *(7 hours x \$25.00 per hour x 2 persons) cleaning at the unit*

\$300.00: *(6 hours x \$25.00 per hour x 2 persons) cleaning at the unit*

\$225.00: *(4.5 hours x \$25.00 per hour x 2 persons)*

I find that the landlords have established entitlement to compensation related to 4 separate episodes of cleaning, as above, in the limited total amount of **\$645.00**. This is calculated on the basis of *21.5 hours x \$15.00 per hour x 2 persons*.

\$100.00: *(\$50.00 per week x 2 weeks) additional cleaning and related contacts with new renters by landlords' agent*

I find that the landlords have established entitlement to the full amount claimed.

\$91.98: *(\$22.97 + \$10.80 + \$58.21) miscellaneous cleaning products*

I find that the landlords have established entitlement to the full amount claimed.

\$371.00: *carpet cleaning & fumigation of the unit*

I find that the landlords have established entitlement to the full amount claimed.

\$75.00: *rekeying of unit locks*

At the end of tenancy the tenants returned only 1 of 2 unit keys which had been given to them at the start of tenancy. Accordingly, I find that the landlords have established entitlement to the full amount claimed.

\$305.00: *removal of old carpet, cleaning / treatment / preparation of flooring surfaces*

I find that the landlords have established entitlement to the full amount claimed.

\$641.11: *purchase and installation of new carpet*

I find that the landlords have established entitlement to the full amount claimed.

\$947.64: *miscellaneous costs claimed by new renters arising from unit's condition*
\$1,650.00: *rent reduction sought by new renters arising from unit's condition*

The landlords testified that the new renters seek miscellaneous compensation from them arising from the condition of the unit at the time when their tenancy began on May 01, 2015. The new renters have filed an application for dispute resolution naming the landlords as respondents, and a hearing is scheduled for March 2016. I find that the landlords have met the burden of proving that the condition of the unit at the end of the subject tenancy was such that their ability to assess a full month's rent for May 2015 was impeded. In the result, I find that they have established entitlement to limited compensation of **\$825.00**, or ½ month's rent under the new tenancy agreement.

\$10.00: *parking / photocopying*

\$22.58: *registered mail*

Section 72 of the Act addresses **Director's orders: fees and monetary orders**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, these aspects of the application are hereby dismissed.

\$50.00: *filing fee*

As the landlords have achieved a significant measure of success with the principal aspects of their application, I find that they have also established entitlement to recovery of the full filing fee.

Sub-total: \$3,104.09

I order that the landlords retain the security deposit of \$825.00 and the pet damage deposit of \$200.00 [**total: \$1,025.00**], and I grant the landlords a **monetary order** for the balance owed of **\$2,079.09** (\$3,104.09 - \$1,025.00).

Finally, the attention of the parties is drawn to Residential Tenancy Policy Guideline # 13, which speaks to “Rights and Responsibilities of Co-Tenants,” and provides in part:

Co-tenants are two or more tenants who rent the same property under the same tenancy agreement. Co-tenants are jointly responsible for meeting the terms of the tenancy agreement. Co-tenants also have equal rights under the tenancy agreement.

Co-tenants are jointly and severally liable for any debts or damages relating to the tenancy. This means that the landlord can recover the full amount of rent, utilities or any damages from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlords in the amount of **\$2,079.09**. If necessary, this order may be served on female tenant “LG,” filed in the Small Claims Court and enforced as an order of that Court.

The landlords’ application naming male tenant “EG” as a respondent is hereby dismissed with leave to reapply.

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: October 15, 2015

Residential Tenancy Branch

