



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, LRE, OLC, RSF, RR, OPR, MNR, MDSD & FF

Introduction

The Application for Dispute Resolution filed by the tenant makes the following claims:

- a. An order to cancel the 10 day Notice to End Tenancy dated October 3, 2015.
- b. An order to suspend or set conditions on the landlord's right to enter the rental unit.
- c. An order that the landlord comply with the Act, regulations and/or the tenancy agreement.
- d. An order that the landlord provide services or facilities required by the tenancy agreement or law.
- e. An order to reduce rent for repairs, services, or facilities agreed upon but not provided.

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for non-payment of rent
- b. A monetary order in the sum of \$3660 for unpaid rent and damages
- c. An order to retain the security deposit.
- d. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties acknowledged they had received the documents of the other party.

I find that the Notice to End Tenancy was served on the Tenant by posting on October 3, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by each party was sufficiently served on the other. :

Analysis – Tenant's Application:

The tenant vacated the rental unit at the end of October. It is no longer necessary to consider the tenant's application as the issues raised in that application are only relevant if the tenant was seeking to continue the tenancy. The tenant's application is dismissed. Similarly, I ordered that the landlord's application for an Order for Possession be dismissed as the consideration of that claim is no longer necessary.

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to A Monetary Order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?

- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on September 1, 2012. The rent is \$1750 per month payable on the first day of each month. The tenant paid a security deposit of \$875 at the start of the tenancy.

The tenant(s) failed to pay the rent for the month of October and the sum of \$1750 remains owing. The tenant(s) vacated the rental unit at the end of October.

Landlord's Application - Monetary Order and Cost of Filing fee:

The Residential Tenancy Act provides the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant and is liable to compensate the landlord for failure to do so. In some instances the landlord's standards may be higher than what is required by the Act. The tenant is required to maintain the standards set out in the Act. The tenant is not required to make repairs for reasonable wear and tear. The applicant has the burden of proof to establish the claim on the evidence presented at the hearing.

Monetary Order and Cost of Filing fee

With respect to each of the landlord's claims I find as follows:

- a. I determined the landlord is entitled to the sum of \$1750 for non-payment of the rent for October. The tenants lived in the rental unit for that month. They failed to pay the rent. I do not accept the submission of the tenant that the landlord agreed to forgo the payment of the rent for that month.
- b. I determined the landlord is entitled to \$240 for the cost of cleaning. The standard terms found in the Residential Tenancy Act Regulations provide the tenancy is to end 1:00 p.m. on the last day of the tenancy. The tenants were not able to complete their clean up by that time. The landlord took possession at 3:00 as the landlord is legally entitled to do. I determined on the basis of the evidence presented that the amount claimed is reasonable.
- c. The landlord claimed \$394.40 for the cost of replacing a carpet. The carpet was 3 years old. The Policy Guideline provides the life expectancy of an interior carpet is 10 years. I determined the landlord is entitled to \$275 being the depreciated value of the carpet.
- d. I determined the landlord is entitled to \$201.60 for the cost of baseboard replacement.
- e. I determined the landlord is entitled to \$297.82 for the cost of replacing heat registers, spray nozzle, filler for floor, screen, blinds, bathroom stopper, toilet paper roll holder and tracking for the closet door. The landlord produced receipts to show this expense was incurred.

I determined the landlord has established a claim against the tenant in the sum of \$2764.42 plus \$50 in respect of the filing fee for a total of \$2814.42.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$875. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$1939.42.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

Conclusion

In summary I ordered that the landlord shall retain the security deposit of \$875. I further ordered that the tenants shall pay to the landlord the sum of \$1939.42.

The tenant alleged the landlord interfered with their quiet enjoyment of the rental unit. That claim was not made in the tenant's application and was not considered. Similarly the landlord alleged other claims that were not considered because they were not identified in the landlord's application.

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: December 11, 2015

Residential Tenancy Branch

