



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REMAX OF GOLDEN
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Landlords on July 24, 2015. The Landlords applied for a Monetary Order for unpaid rent, to keep the Tenants’ security deposit and to recover the filing fee from the Tenants.

Preliminary Issues

One of the Landlords named on the Application appeared for the hearing and provided affirmed testimony as well as documentary evidence prior to the hearing. There was no appearance for the Tenants during the 10 minute duration of the hearing or any submission of evidence prior to the hearing. Therefore, I turned my mind to the service of documents by the Landlords.

The Landlord testified that she served the male Tenant with a copy of the Application and the Notice of Hearing documents on July 24, 2015 by registered mail. The Landlord provided a copy of the Canada Post tracking number and receipt as evidence to support this method of service.

The Landlord confirmed that she had only served the male Tenant and that the address she sent it to had been confirmed as the address where the Tenants had moved to after they had abandoned the rental unit at the end of April 2015. The Landlord testified that the Tenants had not provided a forwarding address. The Canada Post website shows that the documents were received and signed for by the male Tenant on August 5, 2015.

As a result, based on the undisputed evidence of the Landlord, I find the male Tenant was served pursuant to Section 89(1) (c) of the *Residential Tenancy Act* (the “Act”).

However, all parties named on an Application must be served notice of proceedings. Where more than one party is named on an Application, each party must be served separately. This requirement is also detailed on the fact sheet that is provided to an applicant when they make an Application.

Therefore, as the Landlords failed to serve the female Tenant who was named on the Application, I am unable to make any findings or orders against the female Tenant. Subsequently, I have removed the female Tenant's name from the style of cause appearing on the front page of this decision as well as from any order requested by Landlords.

At the start of the hearing, the Landlord confirmed that the amount they were seeking from the Tenant was \$2,918.45 which was documented on the Monetary Order Worksheet served to the Tenant. Although the amount claimed on the Application was only \$2,500.00, I amended the Landlord's Application for the amount of \$2,918.45. The Landlord had also included in the details section that part of the monetary claim was for damages to the rental unit. Therefore, I also amended the Landlords' Application for "damage to the rental unit" as this box had not been selected on the Application. I made the above amendments to the Landlords' Application pursuant to my authority under the Section 64(3) (c) of the Act. The hearing continued to hear the undisputed evidence of the Landlord.

Issues to be Decided

- Are the Landlords entitled to unpaid rent for April 2015?
- Are the Landlords entitled to cleaning costs for the rental unit?
- Are the Landlords entitled to keep the Tenants' security deposit in partial satisfaction of the monetary claim?

Background and Evidence

The Landlord testified that this tenancy started on November 28, 2014 and was for a fixed term tenancy due to expire on June 28, 2015. However, the Tenants abandoned the rental unit on April 30, 2015 after being given a notice to end tenancy. A written tenancy agreement was signed and rent was payable in the amount of \$2,000.00 on the first day of each month. The Tenants paid the Landlords a security deposit of \$500.00 on November 28, 2014 which the Landlords still retain.

The Landlords completed a move-in Condition Inspection Report (the "CIR") on November 29, 2014. The move-out CIR was completed on April 20, 2015 in the absence of the Tenants as they had abandoned the rental unit. The CIR was provided into evidence for this hearing.

The Landlord testified the Tenants failed to pay rent on April 1, 2015. As a result, the Landlord personally served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") on April 2, 2015. The Notice was provided into evidence and shows a vacancy date of April 12, 2015. The Landlord testified that she has not received any rent from the Tenants for the month of April 2015 and therefore now seeks to claim this back in the amount of \$2,000.00.

The Landlord testified that after the Tenants had abandoned the rental unit, she discovered the Tenants had failed to do any cleaning of the rental unit and had left extensive garbage and debris behind which had to be cleaned and hauled away. The Landlord testified that the rental unit was provided to the Tenants furnished and most of the furniture had been soiled and stained by the Tenants and had to be disposed of, hence why there was such a large bill for the cleaning cost.

The Landlords provided company receipts for the cleaning costs in the amount of \$745.20 and a receipt for the removal of the debris and garbage in the amount of \$173.25. The Landlords now seek to recover these costs back from the Tenant.

Analysis

Section 26(1) of the Act requires a tenant to pay rent when it is due under the tenancy agreement whether or not the landlord complies with the Act. Based on the Landlord's undisputed oral evidence and the Notice, I find that the Tenant failed to pay the rent for April 2015 when he was required to do so. Therefore, the Landlord is awarded **\$2,000.00** in unpaid rent.

Section 37(2) of the Act requires a tenant to leave a rental suite reasonably clean and undamaged at the end of a tenancy. 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 Tenant provided no evidence prior to the hearing to dispute the CIR or the Landlords' evidence. Therefore, I find that on the balance of probabilities, the Tenant failed to clean the rental unit pursuant to the Act and left debris and junk behind which had to be removed by the Landlords at their costs. I also accept the Landlords' receipts

which verify the costs being claimed from the Tenant. Therefore, I grant the Landlords these costs in the amount of **\$918.45**.

As the Landlords have been successful in this matter, the Landlords are also entitled to recover from the Tenant the **\$50.00** filing fee for the cost of having to make this Application, pursuant to Section 72(1) of the Act. Therefore, the total amount awarded to the Landlords is **\$2,968.45**.

As the Landlords already hold **\$500.00** of the Tenant's security deposit, I order the Landlords to retain this amount in partial satisfaction of the claim awarded pursuant to Section 72(2) (b) of the Act. As a result, the Landlords are awarded the remaining amount of **\$2,468.45**.

The Landlords are issued with a Monetary Order pursuant to Section 67 of the Act for this amount. This order must be served on the Tenant and may then be filed in the Provincial Court (Small Claims) and enforced as an order of that court if payment is not made in accordance with the Landlords' written instructions. Copies of this order are attached to the Landlords' copy of this decision.

Conclusion

The Tenant breached the Act by not paying rent and causing damage to the rental unit. Therefore, the Landlords can keep the Tenant's security deposit and are issued with a Monetary Order for the remaining balance of **\$2,468.45**.

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: January 28, 2016

Residential Tenancy Branch

