



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, MND, FF

Introduction

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

- a. A monetary order in the sum of \$21,430 for damages to the rental unit
- b. An Order for Possession.
- c. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondents although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the one month Notice to End Tenancy was personally served on the Tenants on December 8, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on each of the Tenants on January 21, 2016.

Preliminary Matter:

PW is not a party to the tenancy agreement. As a result I dismissed the claim against him as he is not a tenant.

The tenants' application disputing the One Month Notice to End Tenancy was dismissed in a hearing held on February 4, 2016. The landlord obtained an Order for Possession. The tenants vacated the rental unit on February 29, 2016. As a result it is not necessary to consider the landlord's application for an Order for Possession.

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 month to month written tenancy agreement that provided that the tenancy would start on June 9, 2011. The tenancy agreement provided that the tenant(s) would pay rent of \$1500 per month payable in advance on the first day of each month. The tenants did not pay a security deposit. The tenants vacated the rental unit on February 29, 2016.

Landlord's Application - Analysis

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.

The Application for Dispute Resolution filed by the landlord identifies 22 claims. The work has not start for most of these claims as the landlord only regained possession of the rental unit 3 days ago. In the circumstances I determined it was appropriate to consider the following claims made by the landlord as the work has been done:

- Cost of repairing the downstairs bathroom - \$3675
- Cost of repairing the upstairs bathroom - \$3675
- Reimbursement of the filing fee - \$50.

I dismissed the claims from 3 to 21 set out in the Details for Dispute with leave to re-apply as those claims are premature. I make no findings on the merits of those claims. Liberty to reapply is not an extension of any applicable limitation period.

Monetary Order and Cost of Filing fee

The landlord testified the tenants or person(s) permitted in the rental property by the tenants broke the tiles in the bathroom or removed the silicone sealant leading to significant water damage. The downstairs bathroom was repaired in October 2015 for a cost of \$3675. The landlord produced a receipt from the contractor indicating it was paid in full on October 28, 2015 for the downstairs bathroom. There is a notation

“damage caused from someone hitting the wall and creating water damage.” There is a receipt dated December 1, 2015 for the repair of the upstairs bathroom indicating it was paid in full in the sum of \$3675. The landlord testified both bathrooms were in excellent condition at the time the tenants took possession.

The landlord testified both bathrooms were renovated in 2009. The landlord is not entitled to the replacement cost of this damage. Depreciation must be factored into a damage award. In the circumstances I determined the landlord is entitled to damages in the sum of \$2500 for each of the bathrooms for a total of \$5000.

Conclusion

In summary I ordered that the tenants BR and DI M pay to the landlord the sum of \$5000 plus \$50 for the amount claimed for the cost of the filing fee for a total of \$5050. The claims 3 to 21 in the Details of Dispute are dismissed with liberty to re-apply.

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.

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: March 03, 2016

Residential Tenancy Branch