



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF, CNR

Introduction

This hearing dealt with cross applications. The landlord is seeking an order of possession, a monetary order and an order to retain a portion of the security deposit in full satisfaction of the claim. The tenant has filed an application seeking to have the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities set aside, a monetary order and an order for the return of her security deposit. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Preliminary Issue

At the outset of the hearing both parties advised that the tenant has moved out and that I no longer need to consider that portion of either party's application. The Ten Day Notice to End Tenancy for Unpaid Rent or Utilities is set aside. Both parties advised that they each seek a monetary order; the hearing was conducted and completed on that basis.

Issues to be Decided

Is either party entitled to a monetary order?

Background and Evidence

The landlord gave the following testimony. The tenancy began on or about October 1, 2014. Rent in the amount of \$700.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$350.00. The tenant failed to pay \$150.00 rent in the month(s) of June and June 2, 2016 the landlord served the tenant with a notice to end tenancy.

The landlord stated that he purchased the property on February 1, 2015. The landlord stated that the tenant "shorted" him \$150.00 because she had replaced some light fixtures prior to him purchasing the property. The landlord stated that the tenant never mentioned it during the 17 months that he was the owner until the last month of the tenancy. The landlord stated that the receipt the tenant submitted is not dated and lacks any contact information. The landlord stated that he questions the veracity of the receipt.

The tenant gave the following testimony. The tenant stated that she had to conduct emergency repairs. The tenant stated that the light fixtures were all shorting out and needed to be replaced. The tenant stated that the previous manager had purchased the lights but wasn't able to find time to install them. The tenant stated that a friend of hers is a licenced electrician and had him install the fixtures with the previous landlords consent. The tenant stated that the previous landlord authorized her to install the lights and was supposed to pay her for it, but he did not. The tenant stated that she forgot about this until she starting packing up to move and found the receipt. The tenant is seeking the return of her full security deposit along with \$150.00 for the installation of light fixtures.

Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of each party's claim and my findings around each are set out below.

I address the landlords claim as follows:

Section 26 of the Act addresses the issue before me as follows:

26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The tenant conceded that she withheld \$150.00 from the June rent without an order from the Branch or the consent of the subject landlord. Based on the above and the tenants own testimony, I find that the landlord is entitled to \$150.00. The landlord is also entitled to the recovery of the \$100.00 filing fee for this application.

I address the tenants claim as follows:

The tenant did not present a contract or agreement for her to conduct emergency repairs that were authorized by the previous landlord. The receipt the tenant submitted is vague in details and lacks a date or contact information of the electrician; I give this document little weight. In addition, the tenant did not advise the new owner of this cost until the end of her tenancy, 17 months later. Based on the insufficient evidence before me and on a balance of probabilities, I dismiss the tenants' claim.

As for the monetary order, I find that the landlord has established a claim for \$250.00. I order that the landlord retain the \$250.00 from the security deposit in full satisfaction of the claim. The landlord is to return the remaining balance of \$100.00 to the tenant. I grant the tenant an order under section 67 for the balance due of \$100.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is to retain \$250.00 of the security deposit. The tenant is granted a monetary order of \$100.00.

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: July 13, 2016

Residential Tenancy Branch