



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, FF. O

Introduction

This hearing was convened by way of conference call in response to the landlords' application for a Monetary Order for unpaid rent; a Monetary Order for damage to the unit, site or property; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenant for the cost of this application.

The tenant and landlords attended the conference call hearing, and were given the opportunity to be heard, to present evidence and to make submissions. The landlords and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The parties confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Are the landlords entitled to a Monetary Order for unpaid rent?
- Are the landlords entitled to a Monetary Order for damage to the unit, site or property?
- Are the landlords entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

The parties agreed that the landlords purchased this property from the tenant and this was finalized on July 31, 2015. This property consists of a single detached home on three levels with two separate self-contained basement suites; a 2 bedroom suite and a 3 bedroom suite. At the previous hearing held on January 18, 2016 (file number included on the cover page of this decision) the parties agreed to the following:

“upon a quick two week closing date to finalize the sale. Through negotiations with their realtors the parties entered into a verbal agreement whereby the Tenant would be allowed to occupy a room in the 3 bedroom basement suite for free, for the month of August 2015, to allow him time to remove all of his possessions and to find another home.

At the time the title changed into the new owners' names each basement suite was occupied. The Landlords and Tenant agreed that the Landlords would deal only with the Tenant. The Tenant was required to deal directly with the other occupants collecting their rent and security deposits to pay to the Landlords. The agreement for August 2015 was the Tenant was to pay the Landlord's \$1,400.00 which consisted of \$850.00 for the master bedroom plus \$550.00 for the den. No payment was required for the room that the Tenant was to occupy for the month of August 2015.

The Tenant testified that on August 2 or 3, 2015 he paid the Landlords \$1,400.00 for the other occupant's August rent plus \$650.00 as their security deposits. The Tenant stated that in mid-August he entered into another verbal agreement with the Landlords allowing him to stay in the rental unit for the month of September at a cost of \$400.00.

The Tenant submitted that on September 1, 2015 he paid the Landlords \$1,800.00 (\$850.00 + \$550.00 + \$400.00) for the rent for the 3 bedroom suite. He stated that all occupants, including him, were moved out of the 3 bedroom suite by September 30, 2015.”

The landlords testified in this hearing that the tenant agreed to perform certain tasks with the sale of the property and in return for this work he would not have to pay the \$400.00 rent for his room for August, 2015. The landlords testified that the tenant did not perform this work as agreed and therefore the landlords now seek to recover the \$400.00 rent for August. The landlords agreed that this was a verbal agreement between the parties.

For this hearing the landlords testified that the tenant failed to leave the rental suite in a clean condition at the end of the tenancy and failed to remove his personal items from the crawl space and garage after the sale was completed. The landlords agreed that they did not complete a move in condition inspection of the unit when the tenant moved into the basement suite; however, at the end of the tenancy the landlords had to clean the walls, the carpet, the cabinets, the doors, the tub and the sink. The landlords agreed that the tenant did help with cleaning the dishwasher, the fridge and the stove. The landlords seek to recover the following amounts for cleaning:

5.30 hours at \$20.00 an hour for the landlord CJ = \$110.00

Carpet cleaning = \$25.00

4 hours for cleaning at \$20.00 an hour for BJ = \$80.00

Moving the tenant's personal belongings from the crawl space 1.30 hours at \$30.00 = \$45.00

The landlords testified that the tenant had lent other tenants who were renting the second basement suite some furniture when the tenant moved out; but the tenant wanted that furniture back. The landlord ended up having to take this furniture upstairs for the tenant to collect. With that furniture and the items left in the crawl space and the landlords' garage after the sale of the house, the landlords feel that the tenant should pay them for storage costs. The landlords contacted a local storage company and were quoted \$400.00 for a month's storage. The landlords therefore seek to recover the amount of \$200.00 for storage as they feel this is a fair amount.

The tenant disputed the landlords' claim concerning work to be completed in order to receive a rent free month for August. The tenant testified that he did not have an agreement with the landlord to do any work in lieu of rent. Any claims made by the landlord stating that the rental for August depended on this work being completed for the sale is false. The rent was agreed at \$1,400.00 for the entire suite for August and this was paid to the landlords. Rent for September was increased to \$1,800.00 and this was also paid to the landlords.

The tenant disputed the landlords' claim regarding cleaning and moving his personal belongings. The tenant testified that the landlords did not complete a move in condition inspection to show the condition of the rental suite at the start of his tenancy in August, 2015 with other occupants. The tenant testified that he actually left the suite cleaner then it was when he moved in. The tenant testified that his personal belongings were removed by September 30, 2015 and there were only some minor items left in the crawl space and garage and some furniture was loaned to the tenants renting the landlords second basement suite. The tenant testified that any items left in the crawl space and garage were left with the landlords' permission when they purchased the property as they wanted a quick sale in 15 days. The furniture on loan was removed by the tenant in November, the crawl space and garage were emptied in October but this was not part of the tenancy it was an agreement with the sale of the property.

At 2.10 p.m. the tenant's phone died and he left the call. The landlord BJ also left the call. The landlord CJ and I remained on the line and the tenant managed to reconnect with the hearing after approximately 15 minutes. Both parties were given the opportunity to cross examine the other but both parties declined.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. The parties both presented other evidence that was not pertinent to my decision. I looked at the evidence that was pertinent and based my decision on this.

With regard to the landlords' claim for unpaid rent for August of \$400.00; I am not persuaded by the landlords' arguments that the tenant had agreed to do work in exchange for \$400.00 rent and that this work was not completed. In a matter such as this the landlord has the burden of proof and when their evidence is contradicted by the tenant then the landlord should provide corroborating evidence to meet the burden of proof. When it becomes one person's word against that of the other then the burden of proof is not met. The landlords did not have a written agreement with the tenant to do any work in lieu of rent and as the tenant has disputed the landlords' claim that he had agreed to do this work then I find the landlords have not met the burden of proof and their claim for a loss of rent is dismissed.

With regard to the landlords' claim for cleaning and removal of personal items; Sections 23(4), 35(3) of the Act require a landlord to complete a condition inspection report at the beginning and end of a tenancy and to provide a copy of it to the tenant even if the tenant refuses to participate in the inspections or to sign the condition inspection report.

The purpose of having both parties participate in a move in condition inspection report is to provide evidence of the condition of the rental unit at the beginning of the tenancy so that the Parties can determine what damages were caused during the tenancy. In the absence of a condition inspection report, other evidence may be adduced but is not likely to carry the same evidentiary weight especially if it is disputed.

The tenant testified that the unit was left in a cleaner condition than it was in when he rented it in August, 2015, without evidence to the contrary I find the landlords' claim for cleaning must fail. The landlords are also claimed \$45.00 to move some of the tenant's personal belongings and \$200.00 for storage. It is not clear if these belongings were stored in the crawl space and garage as a result of the agreement between the parties when the property was sold to the landlords; any issue that relate to the sale of the property and not to the tenancy agreement would not allow me the jurisdiction to make a decision upon those issues. Therefore, I decline to rule on the landlords' claim for moving these items or for storage costs to store these items as I am not satisfied that the agreement was not part of the sale agreement. The landlords are at liberty to seek a remedy through the court of competent jurisdiction.

The same applies to the furniture loaned by the tenant to the other tenants. This is a matter between the tenants and is not part of the tenancy agreement. If the tenant wanted his furniture back or if the landlords wanted it removed; or if the other tenants no longer wanted the use of it is a matter between either the tenant and the other tenants or the other tenants and the landlords as the furniture was used by the other tenants.

As the landlord's application has no merit the landlords must bear the cost of filing their own application.

Conclusion

The landlords' application is dismissed in its entirety without 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: July 19, 2016

Residential Tenancy Branch