



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR, MND, MNSD & MNDC

Introduction

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

- a. A monetary order in the sum of \$13,430 for unpaid rent and damages
- b. An order to keep the security deposit.
- 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 respondent 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 Application for Dispute Resolution/Notice of Hearing was personally served on the Tenant on April 7, 2016. With respect to each of the applicant's claims I find as follows:

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 previous owner and the tenant entered into a fixed term tenancy agreement that provided that the tenancy would start on September 15, 2014 and end on August 31, 2016. The applicant purchased the property in early 2015 and on January 28, 2015 he became a party to this tenancy agreement. The tenancy agreement provided that the tenant(s) would pay rent of \$1200 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$600 on September 11, 2014.

The tenant failed to pay the rent for December 2015 and the sum of \$1200 is owed.

The tenant abandoned the rental unit without giving the landlord notice some time prior to December 1, 2015.

The landlord testified he has attempted to re-rent the rental unit since then but has been unsuccessful. The economy has gone into a recession in that area and many workers have left. He testified he advertised the rental unit in Kijiji and other on line services. He has advertised in the newspaper. He reduced the rent to \$1100 in April and to \$1050 in August. He has upgraded the rental unit but has been unable to find new tenants.

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.

Monetary Order and Cost of Filing fee

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

- a. Where the parties enter into a fixed term tenancy agreement the tenant is obliged to pay the rent for the entire fixed term subject to the obligation of the landlord to attempt to lessen his loss by acting reasonably to re-rent the rental unit. The tenant abandoned the rental unit some time in November or December 2015. I further determined the landlord has acted reasonably in attempting to re-rent the rental unit. He has advertised in print and on line services. He has reduced the rent and attempted to upgrade the rental unit. Despite these reasonable efforts he has been unable to find other tenants. I accept the evidence of the landlord that the downturn in the economy and the massive loss of jobs in the area is the reason. I determined the landlord is entitled to \$10,800 for loss of rent for the period December 2015 to and including August 2016 (9 months).
- b. I determined the landlord is entitled to \$1600 for the repair of damage to the rental unit as evidenced by the invoice of the company doing the work and the photographs.
- c. I dismissed the landlord's claim of \$900 for a \$10 per day delay payment penalty. The Residential Tenancy Act Regulations provide that this late payment penalty is excessive and is not enforceable even though it may have been included in the tenancy agreement.

- d. I determined the landlord is entitled to \$50 for garbage removal.
- e. I determined the landlord is entitled to \$80 for door lock replacement as the tenant failed to return the keys.

In summary I determined the landlord has established a monetary claim against the tenant(s) in the sum of \$12,530 plus the \$100 filing fee for a total of \$12,630.

Security Deposit

I determined the security deposit plus interest totals the sum of \$600. I determined the landlord is entitled to retain this sum. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$12,300.

Conclusion

In summary I determined the landlord has established a monetary order against the tenant(s) in the sum of \$12,630. I ordered the landlord may retain the security deposit/pet deposit in the sum of \$600. In addition I ordered that the Tenant pay to the Landlord the sum of \$12,030.

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: September 08, 2016

Residential Tenancy Branch