



Dispute Resolution Services

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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 \$2418 for loss of 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 both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties acknowledged they had received the documents of the other party.

I find that the Application for Dispute Resolution/Notice of Hearing was served on the Tenants by mailing on April 21, 2016, by registered mail to the forwarding address provided by the Tenants. 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 parties entered into a written tenancy agreement that provided that the tenancy would start on April 1, 2011 and continue on a month to month basis. The tenancy

agreement provided that the tenant(s) would pay rent of \$1000 per month payable in advance on the first day of each month. The tenants paid a security deposit of \$500 at the start of the tenancy. The rent at the time the tenancy ended was \$1029.

At the end of February the landlord served one month Notice to End Tenancy on the Tenant that set the end of tenancy for March 31, 2016. The tenants filed an Application for Dispute Resolution for an order to cancel the Notice to End Tenancy. The hearing was set for April 19, 2016. The tenants found alternative accommodation and cancelled the hearing. The landlord became aware the tenant cancelled the hearing on March 17, 2016. The tenant(s) vacated the rental unit on March 28, 2016. .

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. I determined the landlord is entitled to \$203.30 for the cost of carpet restoration. The tenant acknowledged they had damaged the carpet although they denied they were responsible for all of the stains. I determined the landlord acted reasonably and has proven this claim.
- b. I determined the landlord is entitled to \$53.75 for the cost of a carpet protector. I am satisfied the carpet protector was present when the tenants took possession and was no longer there at the end of the tenancy.
- c. The landlord claimed \$860.59 including taxes the following the cost of parts to repair parts of appliances:
 - Fridge – crisper frames \$222.29, dairy door \$53.18, light cover \$10.71
 - Washing machine boot gasket \$282.19
 - Dryer face cover \$133.98

- Dishwasher door springs \$52.40, both rack wheels \$6.64

The appliances are 8 years old. She purchased a new dishwasher at a price of \$500. Many of the parts have not been purchased as yet. She testified she spent \$140 on seals around the fridge and a further \$278 but failed to present proof of the actual expenditure of the money. In the circumstances after considering reasonable wear and tear, the age of the appliances, the landlord has not purchased the parts as yet I determined the landlord is entitled \$300 for this claim.

- d. I determined the landlord is entitled to \$47.25 for the cost of repairs a drawer front in the bathroom.
- e. I dismissed the landlord's claim of \$1029 for loss of rent for April as the landlord failed to prove that the tenants were responsible for the landlord's inability to find new tenants for April 1, 2016. The landlord chose to end the tenancy and served a one month Notice to End Tenancy on the Tenants. The tenants had a legal right to dispute the Notice which they did. The landlord became aware the Tenants had cancelled the hearing on March 17, 2016. The advertisement placed by the landlord demanded a rent that was higher than what the tenants were paying given the size of their family. The landlord argued the tenants failed to mitigate their loss. The concept of mitigation in this situation imposes an obligation on the applicant to act reasonably to lessen the loss.

In summary I determined the landlord has established a monetary claim against the tenant(s) in the sum of \$604.30 plus the \$100 filing fee for a total of \$704.30.

Security Deposit

I determined the security deposit plus interest totals the sum of \$500. 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 \$204.30.

Conclusion

In summary I determined the landlord has established a monetary order against the tenant(s) in the sum of \$704.30. I ordered the landlord may retain the security deposit/pet deposit in the sum of \$500. In addition I ordered that the Tenant pay to the Landlord the sum of \$204.30.

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 26, 2016

Residential Tenancy Branch