



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CITY VIEW GARDENS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the corporate Landlord on May 17, 2016 for a Monetary Order for: damage to the rental unit; for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the “Act”), regulation or tenancy agreement; to keep the Tenant’s security deposit; and, to recover the filing fee.

An agent for the corporate Landlord (the “Landlord”) appeared for the hearing and provided affirmed testimony. The Landlord also provided documentary and photographic evidence prior to the hearing. There was no appearance for the Tenant during the ten minute hearing or any submission of evidence prior to the hearing. Therefore, I turned my mind to the service of documents by the Landlord.

The Landlord testified that he served the Tenant with a copy of the Application, and the Notice of Hearing documents by registered mail on May 20, 2016 to the Tenant’s forwarding address she had provided. The Landlord provided the Canada Post tracking number into evidence to verify this method of service. The Landlord testified that the documents were returned to him as unclaimed. Section 90(a) of the Act provides that a document is deemed to have been received five days after it is mailed. A party cannot avoid service through a failure or neglect to pick up mail. As a result, based on the undisputed evidence of the Landlord, I find that the Tenant was deemed served with the required documents on May 25, 2016 pursuant to the Act. The hearing continued to hear the undisputed evidence of the Landlord.

Issue(s) to be Decided

The Landlord explained at the start of the hearing that he was only seeking to keep the Tenant’s security deposit in full satisfaction of his monetary claim. Therefore, I proceeded to determine this as the only issue to be decided in this hearing as follows.

Background and Evidence

The Landlord testified that this tenancy started on May 1, 2013 for a fixed term of one year after which the tenancy continued on a month-to-month basis. A written tenancy agreement was signed which required rent in the amount of \$625.00 payable on the first day of each month which was then increased to \$638.00 during the tenancy. The Tenant paid a security deposit of \$312.50 which the Landlord still retains.

The Landlord completed a move-in Condition Inspection Report (the "CIR") on February 18, 2013. The Landlord testified that the tenancy ended on June 30, 2016 and prior to this he attempted to make arrangements with the Tenant to conduct a move-out Condition Inspection of the rental unit.

The Landlord testified that after June 30, 2015, the Tenant had vacated the rental unit but had not returned the keys or provided a forwarding address. The Landlord testified that he posted a letter to the Tenant's door to conduct a move-out condition inspection of the rental unit on August 9, 2016 and asked the Tenant to confirm this date or provide an alternative date and time. However, the Tenant did not respond to the letter. As a result, the Landlord completed the move-out CIR in the absence of the Tenant on August 18, 2016. The CIR was provided into evidence for this hearing.

The Landlord testified that approximately a year later, on May 13, 2016 he received a letter from the Tenant providing him a forwarding address. The Landlord then used the address to file this Application on May 17, 2016.

The Landlord testified that he had to replace the locks to the rental unit because the Tenant had failed to return the keys to him at the end of the tenancy. In addition, the Tenant had failed to clean the rental unit.

In support of his testimony, the Landlord referred to the CIR and his photographs to show the lack of cleaning that had been done by the Tenant at the end of the tenancy. In addition, the Landlord provided a comprehensive list of the cleaning that he conducted which totaled 21 and a quarter hours of cleaning at \$30.00 per hour.

The Landlord also provided invoice evidence for the replacement cost of the locks on the rental unit. The total claim made by the Landlord in the Application was \$795.63 inclusive of the filing fee. However, the Landlord explained that he had no intention of pursuing the Tenant for this amount and only wanted to keep the Tenant's security deposit in full satisfaction of his monetary claim.

Analysis

Section 37(2) of the Act requires a tenant to leave a rental unit reasonably clean and undamaged at the end of a tenancy. In addition, Section 21 of the *Residential Tenancy Regulation* allows a CIR to be considered as evidence of the state of repair and condition of the rental unit, unless a party has a preponderance of evidence to the contrary.

I have considered the undisputed evidence of the Landlord and I make the following findings. The Act requires a tenant to provide the landlord with a forwarding address in writing within one year after the tenancy ended. I accept the Landlord's evidence that the tenancy ended on June 30, 2015 and that the Tenant provided the Landlord with her forwarding address on May 13, 2016, being within one year of the tenancy ending. Secondly, I find that the Landlord applied to keep the Tenant's security deposit within 15 days of being provided with a forwarding address in writing in accordance with Section 38(1) of the Act.

Thirdly, I find the Landlord has provided sufficient evidence that the Tenant failed to comply with Section 37(2) of the Act. The Tenant failed to appear for this hearing and did not provide a preponderance of evidence to dispute the Landlord's evidence. Therefore, I grant the Landlord's request to keep the Tenant's security deposit in the amount of \$312.50. The Landlord abandoned the balance of his monetary claim.

Conclusion

The Tenant breached the Act by failing to clean the rental unit. Therefore, the Landlord may keep the Tenant's security deposit in full satisfaction of the Landlord's Application. This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: November 02, 2016

Residential Tenancy Branch