



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MND, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlords seeking an Order of Possession for cause; a monetary order for damage to the unit, site or property; and to recover the filing fee from the tenant for the cost of the application. The Details section of the landlords' application also specifies a claim for potential loss of rental income.

One of the landlords attended the hearing, gave affirmed testimony, and also represented the other landlord. The landlord also called one witness who gave affirmed testimony. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant attended the call. The landlord's witness testified that he served the tenant personally with the Landlord's Application for Dispute Resolution and notice of this hearing on September 28, 2016 and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

At the commencement of the hearing the landlord advised that the tenant has vacated the rental unit and the landlords' application for an Order of Possession is withdrawn.

Issue(s) to be Decided

The issues remaining to be decided are:

- Have the landlords established a monetary claim as against the tenant for damage to the unit, site or property?
- Have the landlords established a monetary claim as against the tenant for loss of rental revenue?

Background and Evidence

The landlord testified that this fixed term tenancy began on September 1, 2016 and was to expire on August 30, 2017 at which time the tenant was required to vacate the rental unit. However, the tenant vacated the rental unit on October 7, 2016. Rent in the amount of \$700.00 per month was payable on the 1st day of each month. The tenancy agreement provided for a security deposit in the amount of \$350.00 but the tenant never paid any portion of it to the landlord and did not pay any pet damage deposit. The rental unit is a basement suite and the landlords' family resides in the upper unit.

The landlord further testified that the tenant was served with a 1 Month Notice to End Tenancy for Cause, a copy of which has been provided. It is dated September 13, 2016 and contains an effective date of vacancy of October 31, 2016. The reasons for issuing it state:

- Tenant has allowed an unreasonable number of occupants in the unit/site;
- *Residential Tenancy Act* only – security or pet damage deposit was not paid within 30 days as required by the tenancy agreement.

The tenant moved out, but did not pay any rent for the month of October. The landlords had to clean the rental unit after the tenant vacated and started to advertise the unit for rent on or about October 15, 2016. The rental unit was re-rented for November 1, 2016.

The landlords claim unpaid rent for October, 2016 in the amount of \$700.00 as well as recovery of the \$100.00 filing fee.

Analysis

I accept the undisputed testimony of the landlord that the tenant vacated the rental unit without paying rent for the month of October, 2016. I also accept the undisputed testimony of the landlord that the tenant vacated the rental unit on October 7, 2016 and the landlord had to clean it, and advertised it for rent on or about October 15, 2016, and was successful in securing another tenant for November 1, 2016. I find that the landlord has mitigated the loss of rental revenue, having re-rented in less than one month after the tenant vacated. Therefore, I find that the landlords have established a monetary claim for unpaid rent, and I grant a monetary order in favour of the landlords in the amount of \$700.00.

The landlord did not lead any evidence with respect to damages to the unit, site or property, and I dismiss that portion of the landlords' application.

Since the landlords have been partially successful with the application, the landlords are also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, the landlords' application for an Order of Possession is hereby dismissed as withdrawn.

The landlords' application for a monetary order for damage to the unit, site or property is hereby dismissed.

I hereby grant a monetary order in favour of the landlords as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$800.00.

This order is final and binding and may be enforced.

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: November 16, 2016

Residential Tenancy Branch