



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REMAX CALDWELL AGENCIES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing was convened by conference call in response to an Application for Dispute Resolution (the “Application”) made by the corporate Landlord on July 13, 2016 under the *Residential Tenancy Act* (the “Act”). The Landlord applied for a Monetary Order for unpaid rent, to keep the Tenant’s security deposit, and to recover the filing fee.

An agent for the Landlord (the “Landlord”) and the Tenant appeared for the hearing and provided affirmed testimony. The Tenant confirmed personal service of the Landlord’s Application and the Landlord’s documentary evidence. The Tenant also confirmed that he had not provided any evidence prior to this hearing. The hearing process was explained to the parties and they had no questions about the proceedings. Both parties were given a full opportunity to present their evidence, make submissions to me, and cross examine the other party on the evidence before me.

Issues to be Decided

- Is the Landlord entitled to unpaid rent for June 2016?
- Is the Landlord entitled to cleaning costs in the amount of \$600.00?
- Is the Landlord entitled to keep the Tenant’s security deposit in partial satisfaction of the monetary claim made by the Landlord?

Background and Evidence

The parties agreed that this tenancy started on January 1, 2016 for a fixed term of six months. After June 30, 2016 the tenancy was to end and the Tenant was required to vacate the rental unit which he did. Rent for the unit was payable in the amount of

\$1,200.00 on the first day of each month. The Tenant paid a security deposit of \$600.00 which the Landlord still retains.

The Landlord completed a move-in Condition Inspection Report (the "CIR") on December 30, 2015 and a move-out CIR on June 30, 2016. The parties confirmed that the Tenant had provided the Landlord with a forwarding address in writing on June 30, 2016 which the Landlord used to file the Application.

The Landlord testified that the Tenant failed to pay rent for the last month of the tenancy and therefore the owner of the rental unit claims \$1,200.00 in unpaid rent. The Landlord testified that the remaining amount of the Landlord's claim for \$600.00 was attributable to cleaning costs the owner of the rental unit wanted to claim because the Tenant left the rental unit dirty.

The Landlord confirmed that the owner of the rental unit had not provided any receipts for cleaning costs. The Landlord stated that the move-out CIR shows that the Tenant had left grime on the oven and that there was a residue on the floors and baseboards left from pesticides used during the tenancy to eradicate bed bugs.

The Tenant confirmed that he had not paid his last month's rent of this tenancy because the Landlord had failed to deal properly with a bed bug infestation. The Tenant denied that he left the rental unit dirty and testified that he had signed the move-out CIR stating that he disagreed with the damages the Landlord had detailed on it.

Analysis

I accept the parties' evidence that this tenancy ended on June 30, 2016 pursuant to the fixed term date on the signed tenancy agreement. I also accept the Landlord received the Tenant's forwarding address in writing on June 30, 2016. Therefore, I find the Landlord made the Application to keep the Tenant's security deposit within the 15 day time limit provided for by Section 38(1) of the Act.

As a result, I first make a finding on the Landlord's monetary claim for unpaid rent. Section 26(1) of the Act requires a tenant to pay rent when it is due under the tenancy agreement **whether or not** the landlord complies with the Act, unless the tenant has authority under the Act to withhold or deduct rent.

Based on the evidence before me, I find the Tenant had no authority to withhold rent for the last month of this tenancy. The Tenant provided insufficient supporting evidence that there was a bed bug issue in this tenancy which the Landlord had either caused or failed to properly deal with. In this case, the remedy for the Tenant would have been to

apply to have the beg bug issue dealt with through dispute resolution and obtain an Arbitrator's order to withhold rent rather than unilaterally pursuing this course of action which is contrary to the Act. Therefore, I grant the Landlord's claim of \$1,200.00 for unpaid rent.

However, I deny the Landlord's disputed claim for cleaning costs in the amount of \$600.00. I find the Landlord failed to provide sufficient evidence, such as receipts, that would amount to \$600.00 in order to verify the cost being claimed. Furthermore, I find the cleaning the Tenant is alleged to not have done which the Landlord pointed to on the move-out CIR is not close to reflecting a value of \$600.00. Therefore, I deny the Landlord's monetary claim for cleaning of the rental unit.

As the Landlord had to make this Application to recover unpaid rent, I award the Landlord the \$100.00 filing fee pursuant to Section 72(1) of the Act. Therefore, the total amount awarded to the Landlord is \$1,300.00.

As the Landlord already holds \$600.00 in the Tenant's security deposit, I order the Landlord to retain this amount in partial satisfaction of the claim awarded pursuant to Section 72(2) (b) of the Act.

As a result, the Landlord is issued with a Monetary Order for the remaining amount of \$700.00. This order must be served on the Tenant and may then be filed in the Small Claims Division of the Provincial Court and enforced as an order of that court if payment is not made in accordance with the Landlord's written instructions. Copies of this order are attached to the Landlord's copy of this Decision.

Conclusion

The Tenant breached the Act by not paying rent. Therefore, the Landlord can keep the Tenant's security deposit and is issued with a Monetary Order for the remaining balance of \$700.00. The Landlord's Application for cleaning costs is dismissed without leave to re-apply. 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: January 11, 2017

