



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This is an application brought by the Landlord requesting an order to retain the tenants full security deposit of \$425.00, and requesting an order for recovery of the \$100.00 filing fee.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the applicant has established monetary claim against the respondents, and if so in what amount.

Background and Evidence

The parties agree that this tenancy began on September 28, 2015, with the monthly rent of \$850.00, and that a security deposit of \$425.00 was paid at the beginning of the tenancy.

The parties also agree that the tenants vacated the rental unit on November 28, 2015.

The landlord testified that the tenants failed to give any written notice to end tenancy and only informed her on November 27, 2015 that they would be vacating on November 28, 2015.

The landlord further testified that she was unable to re-rent the unit on such short notice, even though she listed the unit for rent, and therefore she lost the full rental revenue for the month of December 2015, in the amount of \$850.00.

The landlord further testified that the tenants left the rental unit very dirty, and as a result she had to have the unit cleaned at a cost of \$125.00.

The landlord is therefore requesting an order to retain the full security deposit of \$425.00 and request recovery of her \$100.00 filing fee.

The tenants testified that they vacated on short notice because the rental unit was not livable as construction was going on in the rental unit that made the unit unsafe, including nail sticking out of walls and loss of use of the sink for over six days.

The tenants also testified that originally the landlord told them the renovations would take about a week, however they took significantly longer than that and as a result they had workmen coming and going out of the rental unit, often without any notice.

The tenants further testified that when they did vacate the rental unit they left the rental unit completely cleaned, and in fact they have had to clean the rental unit themselves when they moved into the unit at the beginning of the tenancy. The tenants further stated that the only areas they could not clean, was due to construction materials being in the rental unit.

The tenants therefore believe that this full claim should be dismissed and their security deposit should be returned.

In response to the tenants testimony the landlord testified that the tenants were fully informed that the renovations needed for the rental unit would take approximately 6 weeks, and in fact it took exactly 6 weeks and one day, and therefore, for the tenants to claim that they were told it would only be one week, is completely false.

The landlord further testified that there is absolutely no reason why the house would be considered unlivable, and in fact when the tenants first gave their notice, they made no mention of the house being unlivable, and that claim was not put forward until after she informed them that two days' notice was insufficient.

The landlord further testified that the tenants did not leave the rental unit properly cleaned.

In response to the landlords testimony, the tenants testified that the landlords son did the moveout inspection with them, and he informed them that nothing further was required.

Analysis

It is my finding that the landlord has shown that the tenants did not give the required Notice to End Tenancy, and as a result she lost the rental revenue for the month of December 2015.

The tenants claim that the rental unit was not livable, however they have provided no evidence other than their testimony in support of that claim and it is my finding that, that is insufficient to meet the burden of proving their claim that the rental unit was not livable.

Further, I accept the landlords testimony that the tenants were informed that renovations were going to be done to the rental unit, and I also accept the landlords testimony that the tenants were given a six week time frame during which that work would be done.

It is my decision therefore that the tenants did not have the right to end this tenancy without giving the required one clear month Notice to End Tenancy, and therefore I allow the landlords request to retain the full security deposit towards the lost rental revenue.

I also allow the landlords request for recovery of the \$100.00 filing fee.

Having allowed the landlord to retain the full security deposit towards the lost rental revenue, there is no need for me to make a finding on the claim for cleaning.

Conclusion

Pursuant to section 38 of the Residential Tenancy Act I order that the landlord may retain the full security deposit, in the amount of \$425.00, and pursuant to section 72 of

the Residential Tenancy Act I have issued a monetary order in the amount of \$100.00 for recovery of the filing fee.

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: January 25, 2017

Residential Tenancy Branch