



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, FF

Introduction

This is an application brought by the Landlord requesting a monetary order in the amount of \$12,505.00, and requesting 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.

Both parties were affirmed.

Issue(s) to be Decided

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

Background and Evidence

Parties agree that this tenancy began on April 25, 2011 and ended at the end of August 2014.

The parties also agree that the monthly rent was \$700.00, and that a security deposit of \$240.00 was paid at the beginning of the tenancy.

Landlord testified that, between January 2012 and August 2014, the rent came in sporadically, and by the date that the tenants vacated, there was a total of \$11,305.00 in outstanding rent.

The landlord also testified that he loaned the tenant \$200.00 to do the brakes on his vehicle, and that money was never repaid.

The landlord further testified that, at the end of the tenancy, the tenants left the rental unit in need of significant cleaning and carpet cleaning, and the total cost to do the carpet cleaning and the cleaning was \$300.00.

The landlord further testified that, due to the fact that the rental unit was left in such poor condition, he lost the full rental revenue for the month of September 2014, in the amount of \$700.00.

The landlord is therefore requesting a monetary order as follows:

rent outstanding between January 2012 in August 2014	\$11,305.00
Money loaned to tenants for break repairs	\$200.00
Carpet cleaning and cleanup	\$300.00
Lost rental revenue for September 2014	\$700.00
Filing fee	\$100.00
Total	\$12,605.00

The tenant testified that the landlords claim for outstanding rent makes no sense whatsoever as he paid the full rent for the term of the tenancy; however because the landlord never gave him receipts he has no way of defending against this claim.

The tenant further testified that the landlords rental spreadsheet also makes absolutely no sense, and he believes that it has simply been fabricated by the landlord.

The tenant further testified that, there may have been some cleaning required when he vacated; however they always kept the rental unit clean and therefore the cleaning should not of been significant. He further stated that there should be no cost for carpet cleaning as there were no carpets in the rental unit.

Tenant further testified that he does not believe that he should be paying any money for lost rental revenue for the month of September 2014 because the rental unit was not left in bad condition, and he believes it was re-rented right away to another tenant.

In response to the tenants testimony the landlord stated that, it's true, he did not give receipts to the tenants as it made no sense to do so since the payments were so sporadic.

The landlord also stated that he does not have a receipt for the carpet cleaning however one was included in his tax return for that year.

The landlord further testified that the unit was not re-rented in the month of September 2014, and in fact it was not rented again until December 2014.

Analysis

Section 26(2) of the Residential Tenancy Act states:

26(2) A landlord must provide a tenant with a receipt for rent paid in cash.

In this case however the landlord has admitted that he did not give receipts to the tenant for rent was paid in cash, and therefore, as stated by the tenant, it is very difficult for the tenant to defend against a claim for outstanding rent.

In the absence of any receipts having been issued by the landlord, it is basically just the landlord's word against that of the tenant as to whether there's any rent outstanding. The burden of proving a claim lies with the applicant and when it is just the applicants word against that of the respondent that burden of proof is not met.

Therefore it is my finding that, since the tenant claims to have paid all rent, the landlord has not met the burden of proving that there was any rent outstanding at the end of the tenancy. I therefore deny the landlords claim for \$11,305.00 in outstanding rent.

It is my finding that I have no jurisdiction over the landlords claim for auto repairs as this does not fall under the Residential Tenancy Act. This was a loan from the landlord to the tenant, unrelated to the tenancy, and the Residential Tenancy Act only covers disputes arising from the residential tenancy.

I will however allow a portion of the landlords claim for cleaning, as the photo evidence clearly shows that this rental unit was left in need of some cleaning. The landlord however has provided no receipts, for either carpet cleaning, or general cleaning, and therefore I am only willing to allow \$100.00 for cleaning.

I will not allow the landlords claim for lost rental revenue for the month of September 2014 however, because the landlord has not shown that the amount of cleaning required would have prevented him from re-renting the unit in the month of September 2014, nor has the landlord provided any evidence to show that he attempted to re-rent the unit and thereby mitigate his loss, as required under section 7(2) of the Residential Tenancy Act, which states:

7(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Having only allowed \$100.00 of the landlords claim, it is my decision that the landlords must bear the \$100.00 cost of the filing fee paid for this application.

Conclusion

I have allowed \$100.00 of the landlords claim, and I therefore order that the landlords may retain \$100.00 of the tenants security deposit, and I have issued an monetary order for the landlord to return the remaining \$140.00 to the tenants.

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: February 06, 2017

Residential Tenancy Branch