



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LANDLORD: OPL, MNR, MNSD, FF
TENANT: CNL, MNDC, FF

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenants.

The Landlord filed seeking an Order of Possession, a monetary order for unpaid rent or utilities, to retain the Tenants' security deposit and to recover the filing fee for this proceeding.

The Tenants filed to obtain an order to cancel the Notice to End Tenancy, for compensation for loss or damage under the Act, regulations or tenancy agreement and to recover the filing fee for this application.

Service of the hearing documents by the Landlord to the Tenants were done by personal delivery on June 3, 2017 in accordance with section 89 of the Act.

Service of the hearing documents by the Tenants to the Landlord were done by registered mail on June 20, 2017 in accordance with section 89 of the Act.

Both parties confirmed the receipt of the other parties' hearing package.

Preliminary matters

At the start of the conference call the Landlord explained that their second evidence package was late as they did not know the Tenants' forwarding address until June 30, 2017 so they were unable to serve the Tenants and the Residential Tenancy Branch the evidence package until July 10, 2017. The Arbitrator indicated that the evidence package would not be accepted into the hearing as service of the evidence was 12 days after the dead line and the Tenants did not have time to review the evidence or respond to it.

Secondly the Tenant said he moved out of the rental unit on June 30, 2017 so he is withdrawing their request to cancel the Notice to End Tenancy dated April 27, 2017. In addition the Landlord said she is also withdrawing her request to end the tenancy and for an Order of Possession as the Landlord has possession of the rental unit. Further the Landlord said the Tenants have paid the utility bills so the Landlord is also withdrawing their claim for unpaid rent or utilities.

Issues to be Decided

Landlord:

1. Is the Landlord entitled to retain the Tenants' security deposit?

Tenant:

1. Are the Tenants entitled to compensation for loss or damage under the Act, regulations or the tenancy agreement?

Background and Evidence

This tenancy started on April 1, 2008 as a month to month tenancy. Rent was \$1,390.00. The Tenants paid a security deposit of \$650.00 on April 1, 2008.

The Landlord said the tenancy ended June 30, 2017 and the Tenants left the rental unit dirty and the yard unmaintained. As a result the Landlord submitted two paid receipts one for cleaning the unit in the amount of \$231.00 and the other for yard clean up and lawn mowing in the amount of \$195.00. The Landlord's Counsel said the Landlord is requesting to retain \$426.00 of the Tenants' security deposit to cover these costs.

The Tenant said he left the unit in good condition and it was not his job to cut the grass. Further the Tenant said he has done a significant amount of work for the Landlord since the tenancy began in 2008 and he would like to be compensated for it now. The Tenant submitted a list of work done over the years and said the compensation he is seeking is for the work done and to repair or replace appliances in the rental unit comes to \$7,860.00. The Tenant indicated in his application he would settle his claim for the amount of \$2,280.00 and he would not presume any additional court action.

The Landlord's Counsel said the tenancy agreement states the Tenant is responsible for the repair and replacement of appliances referred to in section 5 and schedule A of the tenancy agreement. The Landlord's Counsel said the Landlord is not responsible for the repair and replacement of the appliances that the Tenant repaired or replaced.

The Tenant said the Landlord should be responsible for the work he did for the Landlord and for the appliances he repaired and replaced.

Analysis

Section 37 of the Act says; (1) unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.

(2) When a tenant vacates a rental unit, the tenant must

(a) **leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear**, and

(b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

I accept the Landlord's testimony and evidence of two paid cleaning receipts that the rental unit was not left in a satisfactory condition. Consequently the Landlord incurred expenses to clean the rental unit to a standard to rent the unit to a new tenant. I award the Landlord the cleaning cost for the unit and the yard maintenance in the amount of \$426.00.

Further, I find that the Tenants' monetary claims are based on employment agreements or employment disputes. The Tenant said his claims are for payments for work he has done for the Landlord and for work he did on appliances in the rental unit. The Residential Tenancy Act does not have jurisdiction on employment matters. Therefore I have no jurisdiction to make any ruling on these claims. Consequently, I dismiss the Tenants' application without leave to reapply. I encourage the Tenants to seek legal advice to understand their rights and actions with regard to these claims.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenants the \$100.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep \$526.00 ($\$426.00 + \$100.00 = \526.00) of the Tenants' security deposit in payment for cleaning the rental unit and yard.

I order the Landlord to return the balance of the Tenant's security deposit and interest in the amount of \$131.33 ($\$657.33 - \$526.00 = \131.33) immediately.

I order the Tenants' to bear the cost of the application fee of \$100.00 as the Tenants' application was dismissed.

Conclusion

The Landlord is ordered to retain \$526.00 of the Tenants' security deposit.

The Landlord is ordered to return \$131.33 of the security deposit to the Tenants immediately.

The Tenants' application is dismissed due to lack of jurisdiction.

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: July 13, 2017

Residential Tenancy Branch