



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNDC, MNSD, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking a monetary order for damage to the unit, site or property; a monetary order for unpaid rent or utilities; a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenants for the cost of the application.

The landlord and both tenants attended the hearing, and the landlord and one tenant gave affirmed testimony. The parties were also given the opportunity to question each other.

During the course of the hearing, the landlord stated that he had not received the tenants' evidentiary material. However, the tenants have provided proof that the material was sent to the landlord by registered mail, but was returned to the tenants by Canada Post on May 23, 2017 marked, "Unclaimed." The tenants opposed an adjournment, and I ordered that the hearing proceed.

Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenants for unpaid utilities?

- Has the landlord established a monetary claim as against the tenants for damage to the unit, site or property?
- Has the landlord established a monetary claim as against the tenants for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?
- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord testified that this month-to-month tenancy began on July 1, 2013 and ended on June 30, 2016. Rent in the amount of \$900.00 was originally payable under the tenancy agreement, but when the tenant's boyfriend moved in around mid-2015, rent was increased by \$250.00.

At the outset of the tenancy the landlord collected a security deposit in the amount of \$450.00 and then collected an additional \$125.00 security deposit after the tenant's boyfriend moved in, approximately June, 2013.

Rent was payable on the 1st day of each month and there are no rental arrears, however the landlord claims a gas bill covering the period of June 14, 2016 to July 13, 2016 in the amount of \$27.83. The tenants' share is \$7.89. Also, a hydro bill covering the period of June 18 to August 18, 2016 remains outstanding, and the tenants' share is \$12.10.

The landlord also testified that no move-in or move-out condition inspection reports were completed, but the rental unit was newly renovated. The tenants left the home dirty and left things behind. The landlord has also provided photographs which he testified were taken when the tenants moved out.

The landlord further testified that the tenants did not give the landlord a forwarding address in writing, and wanted the landlord to repay double the amount of the security deposit. The parties attended a hearing on January 19, 2017, and a copy of the resulting Decision has been provided as evidence for this hearing. It is dated January 27, 2017 and grants the tenants a monetary order for double the amount of the security deposit and recovery of the \$100.00 filing fee.

The landlord has provided a Monetary Order worksheet setting out the following claims:

- \$500.00 for a quote to repair kitchen floor tiles;
- \$50.00 for materials and tiles,

- \$19.99 for gas and hydro;
- \$50.00 for cleaning costs; and
- \$100.00 for recovery of the filing fee.

The landlord's total claim is \$719.99, and the landlord has provided an email quote from an individual for repair to the kitchen floor, and 2 utility bills.

The tenant (AG) testified that they thought all utilities were paid when the tenants paid rent at the first of every month, and does not deny the utility bills.

With respect to tile and repairs, the tenant testified that it's a false claim and that the marks in the tile were already there when the tenants moved in. The landlord damaged tiles himself moving in a new fridge.

The tenant also testified that the rental unit was left clean at the end of the tenancy. Also, some of the items were left in the back yard which was picked up by the City, not disposed of by the landlord.

Analysis

The tenants do not deny the utility bills, and therefore, I find that the landlord has established a claim in the amount of \$19.99.

Where a party makes a claim against another party for damages, the onus is on the claiming party to satisfy the 4-part test:

1. that the damage or loss exists;
2. that the damage or loss exists as a result of the other party's failure to comply with the *Act* or the tenancy agreement;
3. the amount of such damage or loss; and
4. what efforts the claiming party made to mitigate any damage or loss suffered.

The tenants deny that they caused any damage to the tile floors, or that they left a rental unit unclean, and I am not satisfied that the landlord has established that they did, especially in the absence of any evidence as to the condition of the rental unit at the beginning of the tenancy. The landlord's application for a monetary order for damage to the unit, site or property is hereby dismissed without leave to reapply.

The parties agree and have provided evidence that the security deposit has already been dealt with at arbitration, and the tenants have a monetary order for enforcement.

Therefore, I dismiss the landlord's application for an order permitting the landlord to keep it.

Since the landlord has been partially successful with the application, the landlord is entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$119.99.

The landlord's application for a monetary order for damage to the unit, site or property is hereby dismissed without leave to reapply.

The landlord's application for an order permitting the landlord to keep all or part of the security deposit or pet damage deposit is hereby dismissed without leave to reapply.

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: August 04, 2017

Residential Tenancy Branch