



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR, MND, MNSD, & MNDC

Introduction

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. A monetary order in the sum of \$1820 to recover a rent increase not permitted by the Act
- b. An order that the landlord provide services or facilities required by law

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. A monetary order in the sum of \$1378 for unpaid rent and damages
- b. An order to keep the security deposit.
- c. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of a representative of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties acknowledged they had received the documents of the other party.

I find that the 2 month Notice to End Tenancy was served on the Tenant by posting on March 24, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by the landlord was served on the Tenant by mailing, by registered mail to where the Tenant resides by mailing, by registered mail. Further, I find that the Application for Dispute Resolution/Notice of Hearing filed by the Tenant was sufficiently served on the landlord.

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the Tenant is entitled to a monetary order and if so how much?
- b. Whether the landlord is entitled to a monetary order and if so how much?
- c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

On January 7, 2016 the parties entered into a month to month written tenancy agreement that provided that the tenancy would start on January 11, 2017. The rent was \$1200 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$600 at the start of the tenancy. The rent has since been increased to \$1244 per month payable in advance on the first day of each month.

On March 24, 2017 the landlord served a 2 month Notice to End Tenancy on the Tenant that set the end of tenancy for May 31, 2017.

The tenant vacated the rental unit on May 6, 2017. He sent the landlord a letter dated May 12, 2017 confirming this but did not provide his forwarding address in that letter. I find that the tenant provided the landlord with his forwarding address in writing by e-mail on May 19, 2017.

Tenant's Application:

With respect to each of each of the Tenant's claims I find as follows:

- a. The landlord served a 2 month Notice to End Tenancy on the Tenant at the end of March 2017. As a result the tenant is entitled to the equivalent of one month rent. The tenant failed to pay the rent for May 2017. However, the tenant gave the landlord early notice as he is entitled to. The landlord agrees the tenant is entitled to the sum of \$642.27 for the balance of the rent from May 16, 2017 to May 31, 2017.
- b. The Residential Tenancy Act provides that a landlord must return the security deposit plus interest to the tenants within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing unless the parties have agreed in writing that the landlord can retain the security deposit, the landlord already has a monetary order against the tenants or the landlord files an Application for Dispute Resolution within that 15 day period. It further provides that if the landlord fails to do this the tenant is entitled to an order for double the security deposit.

I determined the landlord filed a claim with the Residential Tenancy Branch with 15 days of receiving the tenants forwarding address in writing. The landlord received the Tenant's forwarding address in writing on May 19, 2017. The landlord filed a claim on May 30, 2017. As a result the tenant is not entitled to the doubling of the security deposit. The tenant is entitled to the return of the deposit subject to the claim of the landlord. Further, the landlord paid the tenant the sum of \$566 on May 29, 2017. The landlord did not state what this was to be applied to (the security deposit or the reimbursement of the equivalent of one month rent). This sum must be deducted from what is owed to the tenant.

In summary I determined the tenant is entitled to \$634 subject to a determination of the landlord's claim.

Landlord's Application - Analysis

The Residential Tenancy Act provides the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant and is liable to compensate the landlord for failure to do so. In some instances the landlord's standards may be higher than what is required by the Act. The tenant is required to maintain the standards set out in the Act. The tenant is not required to make repairs for reasonable wear and tear. The applicant has the burden of proof to establish the claim on the evidence presented at the hearing.

.With regard to each of the landlord's claim I find as follows:

- a. I dismissed the landlord's claim of \$4 for the failure of the tenant to pay the full rent for April as the landlord failed to make this claim.
- b. I dismissed the landlord's claim of \$36.50 for the BC Hydro bill for the period of April 5, 2017 to May 6, 2017 as the landlord failed to include the bill.
- c. I determined the landlord was entitled \$90.77 for the cost of the following utility bills: The tenant acknowledged responsibility for these bills.
 - BC Hydro bill for \$61.75 for Feb. 3 to March 31, 2017
 - Fortis bill in the sum of \$14.39 for March 2, 2017 to March 31, 2017
 - Fortis bill in the sum of \$14.63 for March 31, 2017 to May 2, 2017.
- d. I determined the landlord is entitled to \$125 for the cost of garbage removal. The landlord failed to prove that all of the garbage that was removed belonged to the Tenant
- e. I determined the landlord is entitled to \$120 for the cost of cleaning. After considering all of the evidence including the photos presented I do not accept the submission of the tenant that he sufficiently cleaned the rental unit.
- f. The landlord claimed \$240 and \$55 for the cost of cutting the lawn. The tenancy agreement provided the tenant was responsible for lawn cutting. I do not accept the submission of the Tenant lower suite was responsible for this. However, I determined \$150 is fair compensation for this claim. .
- g. I dismissed the landlord's claim of \$606.13 for non-payment of the rent for the period from May 1, 2017 to May 15, 2017 as the tenant was entitled to deduct the last month rent (the landlord had served a 2 month Notice to End Tenancy).

In summary I determined the landlord has established a claim against the tenant in the sum of \$485.77 plus \$100 for the cost of the filing fee for a total of \$585.77.

Monetary Order and Cost of Filing fee

I determined the tenant has established a claim against the landlord in the sum of \$634. I determined the landlord has established a claim against the tenant in the sum of \$585.77. After setting off one claim against that of the other I ordered that the landlord pay to the Tenant the sum of \$48.23. The tenant is entitled to cash the cheque of \$566 previously provided by the landlord.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

This decision is final and binding on the parties.

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 15, 2017

Residential Tenancy Branch