



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding IMH POOL XIV LP & METCAP LIVING MANAGEMENT INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNSD, OPN, FF

Introduction

On July 21, 2017, the Landlord submitted an Application for Dispute Resolution seeking a monetary order for unpaid rent and damage and to recover the cost of the filing fee. The matter was set for a conference call hearing.

The Landlords agent ("the Landlord") attended the teleconference hearing; however, the Tenants did not. The Landlord provided affirmed testimony that the Tenants were served with the Notice of Hearing and Application by registered mail on August 3, 2017. The Landlord provided the registered mail tracking number as proof of service. The Landlord testified that she sent the Notice of Hearing package to the address that the Tenants provided at the end of the tenancy. I find that the Tenants have been duly served with the Notice of Hearing in accordance with sections 89 and 90 of the *Act*.

The Landlord was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

Preliminary and Procedural Matters

The details of the dispute within the Landlord's Application indicate that the Landlord is seeking to keep the security deposit in partial satisfaction of the claims. The Landlord confirmed that they intended to claim against the security deposit. I amend the Landlord's application to include a request to keep all or part of the security deposit.

Issues to be Decided

- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Is the Landlord entitled to liquidated damages?
- Is the Landlord entitled to a monetary order for damage and cleaning?
- Is the Landlord entitled to keep the security deposit towards the claims?

Background and Evidence

The Landlord testified that the tenancy began on November 1, 2016, as a fixed term tenancy to continue until October 31, 2017. Rent in the amount of \$1,600.00 was to be paid by the first day

of each month. The Tenants paid the Landlord a security deposit of \$800.00 and a pet damage deposit of \$800.00. The Landlord provided a copy of the tenancy agreement.

The Landlord testified that the Tenants broke the fixed term tenancy agreement by giving notice to end the tenancy, and moving out of the rental unit on May 30, 2017.

The Landlord testified that they attempted to rent the unit for June 2017, by advertising the unit on local websites but they were not able to find a Tenant until July 1, 2017. The Landlord suffered a loss of rent for June 2017. The Landlord is seeking a monetary award of \$1,600.00 for a loss of rent.

The Landlord testified that the tenancy agreement has a liquidated damages clause that requires the Tenants to pay \$800.00 for the Landlord's costs of re-renting the rental unit, if the Tenant ends the fixed term tenancy early. The Landlord is seeking a monetary award of \$800.00 for costs to re-rent the unit.

The Landlord is seeking \$300.00 for the cost to clean the rental unit. The Landlord testified that the Tenants left the rental unit dirty at the end of the tenancy. The Landlord testified that the fridge, stove, and microwave needed to be cleaned and the floors and bathroom were left dirty. The Landlord testified that the Tenants did not participate in a move out inspection at the end of the tenancy.

The Landlord is seeking \$210.00 for the cost to repair a wall in the rental unit. The Landlord testified that the Tenants are responsible for a hole in the Livingroom wall. The Landlord testified that it cost \$210.00 for materials, labour, and paint to repair the hole in the wall.

The Landlord asks to keep the security deposit in the amount of \$800.00 in partial satisfaction of her claim.

Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I make the following findings:

I find that the Tenants are deemed served with the Notice of Hearing and failed to attend the hearing. The Landlord's claims are un-opposed.

I find that the Tenants ended the fixed term tenancy early and are therefore responsible for the loss of rent suffered by the Landlord for June 2017. I accept the Landlord's testimony that they attempted to re-rent the unit for June 2017, but were not successful. I grant the Landlord \$1,600.00 for the loss of rent for June 2017.

I find that the Landlord is entitled to claim the liquidated damages amount of \$800.00. The Tenants agreed to this term within the tenancy agreement and the Tenants ended the fixed term tenancy early. I grant the Landlord \$800.00 for the cost to re-rent the unit.

The Landlord's claims for the costs of cleaning and to repair damage to the unit are unopposed. I grant the Landlord \$300.00 for cleaning costs and \$210.00 for the cost to repair the damage.

I authorize the Landlord to keep the security deposit of \$800.00 in partial satisfaction of the claims.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenants to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$3,010.00 comprised of \$1,600.00 for a loss of rent; \$800.00 for liquidated damages; \$300.00 for cleaning costs; \$210.00 for damage costs; and the \$100.00 fee paid by the Landlord for this hearing.

After setting-off the security deposit of \$800.00 towards the claim of \$3,010.00, I find that the Landlord is entitled to a monetary order in the amount of \$2,210.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenants are cautioned that costs of such enforcement are recoverable from the Tenants.

Conclusion

The Tenants ended the tenancy early. The Landlord has established a monetary claim in the amount of \$3,010.00. I order that the Landlord can keep the security deposit in the amount of \$800.00 in partial satisfaction of the Landlord's claim.

I grant the Landlord a monetary order in the amount of \$2,210.00.

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 30, 2018

Residential Tenancy Branch