



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NPR GP INC (GENERAL PARTNERSHIP FOR NPR LTD. PARTNERSH)
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MND, MNR, MNSD, FF, OPB

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession, a monetary Order for money owed or compensation for damage or loss, for a monetary Order for unpaid rent, to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution. As this rental unit has been vacated, I find there is no need to consider the application for an Order of Possession.

The Agent for the Landlord stated that on August 31, 2017 the Application for Dispute Resolution and the Notice of Hearing were sent to the Tenant, via registered mail, at the service address noted on the Application. The Tenant acknowledged receipt of these documents.

On October 25, 2017 the Landlord submitted a USB device and 10 pages of evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was served to the Tenant, via registered mail, on November 06, 2017. The Tenant acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

On November 06, 2017 the Landlord submitted 50 pages of evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was served to the Tenant, via registered mail, on November 06, 2017. The Tenant acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The parties were advised of their legal obligation to speak the truth during these proceedings.

All of the evidence submitted by the parties has been reviewed. Evidence and testimony is only referenced in this written decision if it is relevant to my decision.

Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit, to compensation for unpaid rent and utilities, to collect a various fees, and to keep all or part of the security deposit?

Background and Evidence

The Landlord and the Tenant agree that:

- the tenancy began on September 01, 2016;
- there was a written tenancy agreement that names the Tenant and 3 co-tenants;
- the tenancy agreement is for a fixed term, the fixed term of which ended on August 31, 2017;
- the Tenant never lived in the rental unit;
- the Tenants were obligated to pay \$1,300.00 in rent, which reflects a rent incentive of \$300.00;
- rent was due on the first day of each month;
- a security deposit of \$299.00 was paid;
- on July 01, 2017 the Landlord's daughter gave verbal notice of her intent to vacate the rental unit on July 31, 2017; and
- the Tenant's daughter provided the Landlord with her forwarding address, in writing, on October 16, 2017.

The Tenant stated that the rental unit was vacated on July 31, 2017. The Agent for the Landlord initially stated that the Landlord determined the unit was vacant on August 22, 2017 but she subsequently stated that she is not certain of that date.

The Landlord applied for compensation for unpaid rent from August, in the amount of \$1,300.00. The Agent for the Landlord stated that \$800.00 in rent was paid on July 24, 2017 so she amended the amount of this claim to \$500.00. The Tenant agrees that \$500.00 in rent is still due for August of 2017.

The Landlord is seeking a \$25.00 "late fee" because rent for August was not paid on August 01, 2017. The parties agree there is a term in the tenancy agreement that provides for this fee.

The Landlord is seeking \$28.61 for unpaid gas charges. The Tenant agreed that this amount is due.

The Landlord is seeking compensation of \$850.00 for cleaning the rental unit and \$280.00 for removing items left in the unit at the end of the tenancy. The Landlord submitted digital images, which the Agent for the Landlord stated were taken on August 22, 2017, which show the rental unit required cleaning and that significant amount of items were left in the unit.

The Tenant stated that he did not view the rental unit at the end of the tenancy so he does not know if the digital images represent the condition of the unit when it was vacated.

The Agent for the Landlord stated that employees of the Landlord spent approximately 20 hours cleaning the rental unit and that these employees earn \$15.00 per hour. She stated that the Landlord has requested an hourly rate of \$30.00 per hour for these employees, which reflects costs of cleaning supplies and employee expenses, such as a vehicle allowance.

The Agent for the Landlord stated that the \$850.00 cleaning claim includes a \$150.00 charge for steam cleaning the carpet. She stated that employees of the Landlord spent approximately 9 hours cleaning the carpet.

The Agent for the Landlord stated that employees of the Landlord spent approximately 8 hours disposing of items left in the rental unit. She stated that one of these employees earns \$19.00 per hour and one earns \$21.00 per hour.

The Tenant noted that the Landlord has charged \$30.00 for general cleaning and significantly less for cleaning the carpet. When the Agent for the Landlord was given the opportunity to explain the wage discrepancies she responded that they were the amounts provided to her from "head office".

The Landlord is seeking compensation of \$133.18 for GST. The Agent for the Landlord stated that this is the GST the Landlord will have to pay for cleaning and other services

provided to the Tenant. The Tenant stated that he does not believe the Landlord has to pay GST on wages paid to employees.

The Landlord is seeking compensation of \$25.00 for replacing keys. The Agent for the Landlord withdrew this claim at the hearing.

The Landlord is seeking compensation of \$155.00 for repairs. The Agent for the Landlord stated that this was for repairing damage to the walls and some doors. The Tenant agreed that the Landlord is entitled to compensation in this amount.

The Landlord is seeking a \$25.00 administration fee. The Agent for the Landlord stated that section 45 of the tenancy agreement requires tenants to pay a \$25.00 administration fee is applied if "deductions from the security deposit are necessary". The Agent for the Landlord does not know which section of the Act authorizes the Landlord to collect this administration fee.

Analysis

On the basis of the undisputed testimony of the Tenant, I find that this rental unit was vacated on July 31, 2017. I therefore find that the tenancy ended pursuant to section 44(1)(d) of the *Residential Tenancy Act (Act)*, when the rental unit was vacated on July 31, 2017.

As this tenancy ended on July 31, 2017, I find that the Tenant was not required to pay rent on August 01, 2017. As the Tenant was not required to pay rent on August 01, 2017, I dismiss the Landlord's claim for a late fee for not paying rent for August by August 01, 2017.

Section 45(2)(b) of the *Act* permits a tenant to end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is not earlier than the date specified in the tenancy agreement as the end of the tenancy.

I find that the tenants did not have the right to end this tenancy prior to August 31, 2017, pursuant to section 45(2)(b) of the *Act*, as the tenancy was a fixed term tenancy, the fixed term of which ended on August 31, 2017. As the tenancy was not ended in accordance with section 45(2)(b) of the *Act* and the Landlord experienced a loss of revenue for August of 2017, I find that the Landlord is entitled to compensation for lost revenue for August of 2017.

On the basis of the undisputed evidence I find that the monthly rent was \$1,300.00. As the Landlord has collected \$800.00 in rent for August of 2017, I find that the Landlord is entitled to an additional \$500.00 in lost revenue for this month.

On the basis of the undisputed evidence I find that the Tenant owes \$28.61 in unpaid utilities and I grant the Landlord's claim for this amount.

On the basis of the digital images submitted in evidence I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to leave the rental unit in reasonably clean condition at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for the costs associated with cleaning the rental unit.

Section 67 of the *Act* authorizes me to order a tenant to pay compensation to a landlord if the landlord suffers a loss as a result of the tenant not complying with the *Act*. Claims for compensation are meant to compensate the injured party for their actual loss and are not meant to generate a profit for the injured party.

On the basis of the testimony of the Agent for the Landlord, I find that employees of the Landlord who earn \$15.00 per hour spent approximately 29 hours cleaning the unit. I therefore find that the Landlord is entitled to compensation for these wages, in the amount of \$435.00. I find that the Landlord has submitted insufficient evidence to establish that these employee expenses exceeded \$15.00 per hour.

On the basis of the testimony of the Agent for the Landlord, I find that an employee of the Landlord who earns \$19.00 per hour spent approximately 4 hours disposing of items left in the rental unit. I therefore find that the Landlord is entitled to compensation for these wages, in the amount of \$76.00. I find that the Landlord has submitted insufficient evidence to establish that the expenses of this employee exceeded \$19.00 per hour.

On the basis of the testimony of the Agent for the Landlord, I find that an employee of the Landlord who earns \$21.00 per hour spent approximately 4 hours disposing of items left in the rental unit. I therefore find that the Landlord is entitled to compensation for these wages, in the amount of \$84.00. I find that the Landlord has submitted insufficient evidence to establish that the expenses of this employee exceeded \$21.00 per hour.

In addition to wages, I would typically conclude that a landlord is entitled to compensation for other reasonable costs associated to cleaning a rental unit, such as disposal fees, cleaning supplies, or equipment rental. In these circumstances

insufficient evidence has been submitted to establish the cost of such expenses and I cannot, therefore, award compensation for cleaning supplies or other expenses.

Although I accept that a business is required to collect GST on services provided to an individual, I find that the Landlord has submitted insufficient evidence to establish that the Landlord is required to pay GST on a monetary award granted through these proceedings. I therefore dismiss the Landlord's claim of \$133.18 for GST.

On the basis of the undisputed evidence, I find that the Landlord is entitled to compensation of \$155.00 for repairing damage to the rental unit.

Section 7(1) of the Residential Tenancy Regulation outlines various fees that can be charged by the Landlord, which include:

- the direct cost of replacing keys or other access devices;
- the direct cost of additional keys or other access devices requested by the tenant;
- a service fee charged by a financial institution to the landlord for the return of a tenant's cheque;
- an administration fee of not more than \$25 for the return of a tenant's cheque by a financial institution or for late payment of rent;
- a fee that does not exceed the greater of \$15 and 3% of the monthly rent for the tenant moving between rental units within the residential property, if the tenant requested the move;
- a move-in or move-out fee charged by a strata corporation to the landlord;
- a fee for services or facilities requested by the tenant, if those services or facilities are not required to be provided under the tenancy agreement.

There is nothing in the legislation that permits a landlord from charging an administration fee if there is a deduction from the security deposit. I therefore dismiss the Landlord's claim for this \$25.00 fee.

I find that the Landlord's Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of \$1,387.61, which includes \$500.00 in lost revenue for August of 2017; \$28.61 for unpaid utilities; \$595.00

for cleaning; \$155.00 for repairing damages in the rental unit and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain the Tenant's security deposit of \$299.00 in partial satisfaction of this monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance \$1,079.61. In the event the Tenant does not voluntarily comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: March 13, 2018

Residential Tenancy Branch