



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MND, FF

Introduction

The landlord applies for a monetary award for unpaid rent, loss of rental income and for the cost of cleaning the home and the repair of a dryer.

All parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Does the relevant evidence presented during the hearing show on a balance of probabilities that the tenants are responsible for any of the claims made by the landlord?

Background and Evidence

The rental unit is a three bedroom condominium apartment. The landlord is the owner.

There is a written tenancy agreement. It discloses that the Z.s are the tenants. The respondent Ms. M.K., their mother, is not named as a tenant in the tenancy agreement.

The tenants took possession in December 2016 and a tenancy agreement was signed for a term commencing February 1, 2017 to July 31, 2018. The monthly rent was \$3000.00, due on the first of each month. The landlord holds a \$1500.00 security deposit and a \$1500.00 pet damage deposit.

The tenants' post dated rent cheque for March 2018 was dishonoured by their bank. They did not pay that rent. They vacated the property on March 16 and turned the keys back to the landlord on that date.

The tenants had a number of complaints about the landlord's tardiness in attending to repairs, particularly of a second toilet, a gas fireplace and a complaint that the landlord was showing the rental unit to prospective purchasers during their occupation of the rental unit. However, the tenants have not brought their own claim and so these matters are not in issue in this proceeding. The tenants are free to make their own application in that regard.

As well, the tenants' documentation hints at a suggestion that they considers that tardiness to have been a good cause for them to leave before the end of the fixed term. However, that argument was not advanced at hearing. Ms. M.K. candidly stated that the exchange rate for the funds she received from abroad had drastically changed and she could no longer afford the rental unit.

The landlord presents a series of photos of the rental unit at the end of the tenancy. No move out inspection was done with the tenants. Their leaving was not formally scheduled with the landlord, who was informed by email that they had moved out.

The landlord did not attempt to re-rent the premises. She had been attempting to sell it for a number of months, as evidenced by the entry notices the tenants had received to permit showings.

The landlord's assistant Ms. Z. indicates that the sale of the rental unit closed on May 31, 2018.

Ms. Z. also says the landlord had to repair the clothes dryer because the tenants did not clean the lint filter in it.

In regard to the issues raised by the application, Ms. M.K. says the tenancy ended because the landlord issued a ten day Notice to End Tenancy for unpaid March rent. She indicates that she had put a stop payment on the rent cheque. She would have stayed had she been able to afford it.

She indicates that the parties attempted to negotiate a mutual end to the tenancy but that ultimately the landlord would not sign the document.

She admits that the tenants did no cleaning before leave but she thinks that the \$598.50 paid by the landlord is too much

Analysis

Cleaning, Disposal Carpet

The landlord claims recovery of \$598.50 under this item and produces a receipt from a cleaning company for \$220.00 for carpet shampooing, \$270.00 for cleaning and \$80.00 for debris removal (plus tax).

Having regard to the condition of the premises at the end of the tenancy, as shown in the landlord's evidence, I find this to be a not unreasonable charge for this work and I allow it.

Dryer Repair

I dismiss this item of the claim. The landlord opines that the repairs were necessitated by the tenants' failure to clean the lint trap in the dryer. Without having any knowledgeable opinion from an expert, professional or technician about the cause, I find the landlord's opinion to be speculative and not sufficient proof of the cause of the dryer failure.

March Rent

It is clear that the tenants owed the March rent on March 1 and failed to pay it. I award the landlord \$3000.00.

April and May Rent

Under the terms of the tenancy agreement the tenants were responsible to pay rent each month up to and including July 2018. Their failure to carry out that obligation by failing to pay March rent was a fundamental breach of the tenancy agreement.

The tenants are responsible for the remainder of the rent coming due for the remaining months of the term. By s. 7(2) of the *Residential Tenancy Act*, the landlord must do whatever is reasonable to minimize the damage or loss. In most cases a landlord minimizes loss by finding a new tenant to pay the rent. In this case the landlord sold the rental unit.

In the circumstances, the tenants knew the landlord was attempting to sell and would have or should have been aware when they breached the tenancy agreement and left that the landlord might not locate a replacement tenant before a sale.

I find that the landlord took reasonable steps to minimize her loss but that she nevertheless suffered the loss of two months' rental income as the result of the tenants' breach. I award her \$6000.00.

Conclusion

The landlord is entitled to a monetary award of \$9598.50, plus recovery of the \$100.00 filing. I authorize the landlord to retain the \$3000.00 in deposit money that she holds, in reduction of the amount awarded. She will have a monetary order for the remainder of \$6698.50, against the tenants Ms. K.Z. and Ms. K.Z.

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: April 29, 2018

Residential Tenancy Branch