



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL, FFL

Introduction

On April 24, 2018, the Landlord made an Application for Dispute Resolution seeking a Monetary Order for the cost of replacement keys pursuant to section 67 of the *Act* and seeking to recover the filing fee pursuant to section 72 of the *Act*.

The Landlord and the Tenant attended the hearing and both parties provided a solemn affirmation.

The Landlord advised that she served the Notice of Hearing package, by registered mail, on April 26, 2018 and the Tenant confirmed receipt of this package. As such, and in accordance with sections 89 and 90 of the *Act*, I am satisfied that the Tenant was served with the Landlord's Notice of Hearing package.

I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order pursuant to section 67 of the *Act*?
- Is the Landlord entitled to recover the filing fee pursuant to section 72 of the *Act*?

Background and Evidence

The Landlord stated that the tenancy started on June 1, 2017 as a fixed term tenancy until April 30, 2018. The Tenancy agreement stated that the tenancy would continue as a month to month tenancy after the fixed term concluded. Rent was established at \$900.00 per month, due on the

first day of each month. A security deposit was not collected. The Tenant confirmed these details.

The Landlord stated that she met with the Tenant in February 2018 to show the rental unit to prospective tenants; however, the Tenant wanted proper notice for viewings. Contradictorily, the Landlord had also met with the Tenant's father to convince her to stay in the rental unit; however, the Landlord stated that it made more sense for her not to renew the tenancy agreement. She submitted that the Tenant moved out of the premises sometime before April 15, 2018 and did not notify her that she was leaving. The reason she noticed this is because the Tenant's car was gone, so she texted the Tenant to confirm that she had left.

The Tenant stated that the Landlord asked her to move out so she moved out on April 13, 2018 and cleaned the premises on April 15, 2018. She submitted that the Landlord texted her that night to set the alarm so this proves that she was aware that the Tenant had vacated the rental unit. She stated that the Landlord did not give her the proper notice to end the tenancy as she simply served a letter to the Tenant stating that the Landlord's step-daughter would be moving into the premises. The Tenant texted the Landlord advising that she would mail the keys back to her, and the Landlord asked the Tenant to have the keys sent to her work address. The Tenant mailed the keys on April 16, 2018 and she stated that she received a text from the Landlord on April 19, 2018 advising that the Landlord had received the package; however, the envelope was torn open and damaged and the keys were not in the envelope. The Tenant stated that she never refused to participate in a move out inspection report and that one was never requested.

The Landlord advised that there was no move out inspection report conducted with the Tenant, so asking her to return the keys in the mail was a last resort. She stated that she received an envelope in the mail from the Tenant where it appeared that the mail sorter at Canada Post "obviously ripped the envelope open". She advised that she was not comfortable with the Tenant returning the keys in this fashion and the Tenant could have left them in the backyard or in the rental unit.

The Tenant stated that the Landlord had changed her mind regarding if the Tenant could stay or not, and the Tenant accommodated the Landlord by leaving the rental unit early. She advised that she was not available to chase the Landlord around to return the keys and that she did not return the keys in person as the Landlord is hard to deal with. The Tenant submitted that she returned the keys as per the Landlord's instructions to mail them to her work. If the Landlord had asked her to return the keys in a different manner, she would have done so.

Analysis

In reviewing all the evidence with respect to the history of this tenancy, it appears that there were many issues where both parties did not proceed in accordance with the *Act*, and the issue with the return of the keys is another example of this as it should generally be returned at the

end of the tenancy during a move out inspection with the Landlord. However, the undisputed evidence before me is that the Landlord requested that the Tenant return the keys via mail and to send them to her work address, which it appears that the Tenant has complied with. I do not find it reasonable that the Tenant would have gone to the extent of mailing a pre-torn envelope to the Landlord without the keys included. In this situation, I find it more likely than not that the envelope was torn in transit. As such, I do not find that the Tenant can be held responsible for the cost of re-keying the rental unit. Consequently, I do not find that the Landlord has established their claim and I dismiss the Landlord's Application in its entirety. I encourage both parties to seek information from the Residential Tenancy Branch about their rights and responsibilities as Landlord and Tenant in order to avoid any complications or claims in any future tenancies.

As the Landlord was unsuccessful in her application, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the Landlord's Application without leave to re-apply.

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: June 25, 2018

Residential Tenancy Branch