



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, MNRL-S, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Landlord under the *Residential Tenancy Act* (the “Act”), seeking a Monetary Order for unpaid rent, money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and recovery of the filing fee, as well as authorization to withhold the security deposit against any money owed.

The hearing was convened by telephone conference call and was attended by three agents for the Landlord (the “Agents”), all of whom provided affirmed testimony. The Tenants did not attend. The Agents were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the respondents must be served with a copy of the Application and Notice of Hearing. As the Tenants did not attend the hearing, I confirmed service of these documents as explained below.

The Agents testified that the Application, the Notice of Hearing, and the evidence package were sent individually to each of the Tenants on November 16, 2017, by registered mail and provided me with the registered mail tracking numbers. The Agents also testified that the packages were received by the Tenants on November 20, 2017. As a result, I find that the Tenants were served in accordance with the Act and the Rules of Procedure on November 20, 2017.

I have reviewed all evidence and testimony before me that was accepted for consideration in these matters in accordance with the Rules of Procedure; however, I refer only to the relevant facts and issues in this decision.

At the request of the Agents, copies of the decision and any orders issued in favor of the Landlord will be e-mailed to them at the e-mail address provided in the hearing.

Issue(s) to be Decided

Is the Landlord entitled to compensation for unpaid rent, money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement and to withhold the security deposit against these amounts?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy agreement in the documentary evidence before me states that the month-to-month tenancy began April 1, 2017, and that rent in the amount of \$1,304.00 is due on the last day of each month. The tenancy agreement also states that a security deposit in the amount of \$652.00 was paid by the Tenants, which the Landlord still holds.

The Agents stated that on October 17, 2017, the Tenant K.H. attended the office to advise them that she was ending the tenancy effective October 31, 2018. The Agents stated that she was advised that she must give at least one month's written notice to end the tenancy but that no such notice was ever received.

The Agent M.K stated that on October 24, 2017, K.H. phoned her to discuss a move-out inspection. M.K stated that she again reminded the Tenant that she needed to give one month's written notice to end the tenancy to which the Tenant stated she did not and that the Landlord should do what they have to do. The Agents stated that the Tenants subsequently moved out without having ever provided one month's written notice to end the tenancy and that a move-out inspection was completed on November 8, 2017, with the Tenant K.H.

The Agents stated that despite attending the move-out inspection and providing a forwarding address on the move-out condition inspection form, the Tenant K.H. refused to sign the report as she refused to pay any costs towards cleaning.

The Agents sought \$74.20 for the cost of cleaning drapes, \$40.00 for the cost of two hours' worth of cleaning in the rental unit, \$140.00 for the cost of carpet cleaning, and \$30.00 for the cost of removing two couches, several dressers and several mattresses abandoned by the Tenants. In support of these claims the Agents provided the names of the drape and carpet cleaning companies, a receipt for the cost of disposing items at the dump, copies of the condition inspection report noting the condition of the rental unit at move-in and move-out, and photographs of the rental unit at the time of the move-out inspection.

The Agents stated that as the Tenants did not give written notice to end the tenancy, they also owe November rent in the amount of \$1,304.00 plus the \$25.00 late fee as prescribed in the tenancy agreement. The Agents stated that they posted the unit for re-rental on two major online sites on November 8, 2018, as soon as the move-out inspection was completed but could not post the rental unit any earlier as they could not guarantee that the Tenants would move out given that they had not provided written notice to do so. The Agents stated that despite posting the advertisement as soon as possible, they could not find a tenant to move in earlier than December 15, 2017. However, the Agents stated that they are not seeking any loss of rent for December 1-December 15, 2017, only the outstanding rent for November 2017.

The Tenants did not appear at the hearing to present any evidence or testimony for my consideration.

Analysis

Section 45(1) of the *Act* states that a tenant may end a periodic 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 the day before the day in the month, or other period on which the tenancy is based, that rent is payable under the tenancy agreement. It also states that the notice must comply with section 52.

Section 52 of the *Act* states that in order to be effective, a tenant's notice to end a tenancy must be in writing, be signed and dated by the tenant giving the notice, give the address of the rental unit, and state the effective date of the notice.

I accept the Agents' undisputed that the Tenants failed to give written notice prior to ending their tenancy on November 8, 2018. As section 26 of the *Act* states that a tenant must pay rent when it is due under the tenancy agreement, I find that the Tenants were required to pay November's rent on time and in full on October 31, 2018. I also accept the Agents' undisputed testimony that the Tenant's failed to pay rent for November in the amount of \$1,304.00. As a result, the Landlord is therefore entitled to compensation in the amount of \$1,304.00 for November rent. Further to this, as the tenancy agreement allows for the Landlord to charge a \$25.00 fee for the late payment of rent, I find that the Landlord is also entitled to compensation in the amount of \$25.00 pursuant to section 7(1)(d) of the regulation.

Section 37 of the *Act* states that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Section 7 of the *Act* and Residential Tenancy Policy Guideline #16 also state that a landlord

or tenant who does not comply with the *Act*, the regulations or their tenancy agreement must compensate the affected party for the resulting damage or loss.

As there is no evidence before me to the contrary, I accept the Agents' undisputed testimony and documentary evidence that the Tenants breached section 37 of the *Act* when they failed to leave the rental unit reasonably clean, resulting in \$284.20 in cleaning and disposal costs. Pursuant to sections 7 and 65 of the *Act*, I therefore find that the Landlord is entitled to \$284.20 for the cost of cleaning the rental unit and disposing of the refuse left behind by the Tenants at the end of the tenancy.

Pursuant to section 72 of the *Act*, I also find that the Landlord is entitled to the recovery of the \$100.00 filing fee and to retain, in full, the \$652.00 security deposit paid by the Tenants in partial satisfaction of the outstanding amounts owed.

Based on the above, the Landlord is therefore entitled to a Monetary Order in the amount of \$1,061.20; \$1,713.20 owed for outstanding rent, fees, and cleaning costs, less the \$652.00 security deposit.

Conclusion

Pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of **\$1,061.20**. The Landlord is provided with this Order in the above terms and the Tenants must be served with **this Order** as soon as possible. Should the Tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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 *Residential Tenancy Act*.

Dated: July 4, 2018

Residential Tenancy Branch