



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RMAX CHECK REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord under the Residential Tenancy Act, (the “*Act*”), for a monetary order for damages, permission to retain the security deposit and an order to recover the cost of filing the application. The matter was set for a conference call.

The Landlord attended the hearing and was affirmed to be truthful in her testimony. As the Tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. Section 59 of the *Act* and the Residential Tenancy Branch Rules of Procedure states that the respondents must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified that the documents were sent by registered mail on June 18, 2018, a Canada post tracking number was provided as evidence of service. Section 90 of the *Act* determines that a document served in this manner is deemed to have been served five days later. I find that the Tenants have been duly served in accordance with the *Act*.

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

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issues to be Decided

- Is the Landlord entitled to monetary compensation for damages?
- Is the Landlord entitled to retain the security deposit for this tenancy?
- Is the Landlord entitled to recover the filing fee for this application?

Background and Evidence

The Landlord testified that the tenancy began on July 1, 2015, as a one-year fixed term tenancy. Rent in the amount of \$820.00 was to be paid by the first day of each month and the Landlord had been given a \$397.50 security deposit at the outset of the tenancy. The Landlord provided a copy of the tenancy agreement into documentary evidence.

The Landlord testified that the Tenants move out of the rental unit on May 31, 2018, and that the move-out inspection was completed on the same day, with the Tenants present. The Landlord provided a signed copy of the move-out inspection into documentary evidence.

The Landlord testified that the rental unit had been left unclean at the end of the tenancy and the at the yard maintenance, including mowing and trimming the lawns had not been done for quite a while. The Landlord testified that they had to bring a cleaner in to clean the rental unit and a lawn care company to mow the lawn and edge the property, at the end of the tenancy. The Landlord provided two receipts into documentary evidence, for the cleaning and lawn work that had been completed.

The Landlord is requesting to recover the costs associated with cleaning the rental unit and having the lawn mowed and trimmed.

Analysis

Based on the evidence before me, the testimony of the Landlords, and on a balance of probabilities that:

I accept the undisputed testimony of the Landlord and the signed move-out inspection report, that the rental unit was left unclean at the end of this tenancy and that the lawns had not been properly maintained during the tenancy.

I accept the undisputed testimony of the Landlord that it took 4 hours to clean the rental unit after the Tenant had moved out, at the cost of \$101.97. I also accept that it took 4 hours to complete all the of lawn and yard clean up at the end of the tenancy, at the cost of \$346.08

Awards for compensation due to damage or loss are provided for under sections 7 and 67 of the *Act*. A party that makes an application for monetary compensation against another party has the burden to prove their claim. The Residential Tenancy Policy Guideline #16 Compensation for Damage or Loss provides guidance on how an applicant must prove their claim. The policy guide states the following:

“The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. To determine whether compensation is due, the arbitrator may determine whether:

- A party to the tenancy agreement has failed to comply with the *Act*, regulation or tenancy agreement;
- Loss or damage has resulted from this non-compliance;
- The party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- The party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

In this case, I find that the Tenants breached section 37 of the *Act* when they did not return the rental unit reasonably clean and the lawn in a reasonable condition at the end of this tenancy. I have carefully reviewed the move-out inspection report, and I am satisfied that the Landlord took reasonable steps to minimize the losses due to this breach by the Tenant. Therefore, I find that the Landlord has established an entitlement to a recovery of their cost associated with cleaning the rental unit and having the lawn maintenance work completed.

As the Landlord has been successful in his application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this hearing.

I grant the Landlord a monetary order of \$150.10, consisting of \$101.97 in cleaning costs, \$346.08 in yard maintenance costs, and the recovery of the \$100.00 filing fee for this hearing, less the \$397.50 security deposit that the Landlord is holding for this tenancy.

Conclusion

I find for the Landlord under sections 67 and 72 of the Act. I grant the Landlord a **Monetary Order** in the amount of **\$150.10**. 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: October 3, 2018

Residential Tenancy Branch