



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Tenant: CNR ERP RP RR
Landlord: OPR MNR MNSD FF

Introduction

This hearing was convened as a result of a cross Application for Dispute Resolution. The participatory hearing was held, via teleconference, on April 2, 2019. Each party applied for multiple remedies under the *Residential Tenancy Act* (the “Act”).

Both parties attended the hearing and provided testimony. Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. Both parties acknowledged receipt of each other’s application and evidence and neither party took issue with the service of these documents during 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.

Preliminary Matters

During the hearing, the Tenant testified that he has already vacated the rental unit. Given this, I find all of the issues on the Tenant’s application are moot, and are dismissed without leave, with the exception of his application for a rent reduction, which will be addressed further below.

With respect to the Landlord’s application, given he has regained possession of the rental unit, his application for an order of possession is no longer required. I dismiss this portion of his application, without leave, and the only remaining ground on his application is his request to be compensated for unpaid rent, and to claim against the security deposit for this rent owed.

Issue(s) to be Decided

Landlord:

- Is the Landlord entitled to a monetary order for unpaid rent or utilities?
- Is the Landlord entitled to retain all or a portion of the Tenant's security deposit in partial satisfaction of the monetary order requested?

Tenant:

- Is the Tenant entitled to a rent reduction for repairs, services or facilities agreed upon but not provided?

Background and Evidence

During the hearing, both parties agreed on the following:

- Monthly rent was \$700.00 per month, and was due on the first of the month.
- The Landlord holds a security deposit in the amount of \$350.00

The Tenant stated that he moved out between March 9 and 11, 2019, and mailed his keys back to the Landlord, by registered mail. The Landlord stated he did not get the keys back until March 15, 2019. The Landlord issued the Tenant a 10 Day Notice to End Tenancy (the Notice) on February 11, 2019, with an effective date of February 28, 2019. The Tenant disputed this Notice with our office as part of this application, but moved out anyways, in early March.

The Tenant applied for a rent reduction based on things he feels were deficient with the rental unit. On the Tenant's application he stated he wants \$700.00 for the following:

"deplorable condition mold found behind drywall rotten kitchen counters rotten cupboard below kitchen sink ceiling is seperating in certain rooms soft floors collapsed decks drywall around sub panel needs to be replaced non there mold in almost every window and window paynes are in deplorable conditions. had a possible new roommate but wont move in do to hoorble conditions of house."

The Tenant also provided a couple of photos with his application but did not speak to or explain any of the photos in the hearing. When asked to explain his application for rent reduction in the hearing, the Tenant stated that the kitchen needed repairing, and the deck was damaged and the Landlord never fixed the place up, despite saying he would. When asked to explain how he arrived at his amount of \$700.00, the Tenant was unclear, and indicated \$350.00 of this was for his security deposit, and some was for some labour he did for the Landlord that he was never paid for. The Tenant stated he fixed things around the house he was never paid for. The Landlord stated he never

asked the Tenant to fix anything, and the Tenant did not check with him prior to doing any work.

The Landlord cross applied for unpaid rent. The parties agreed that the Tenant moved out between March 9-11, 2019, and the Landlord received the keys back on March 15, 2019. The parties both agree that the Tenant left behind his truck canopy, and has yet to pick this up. The Landlord stated he has still not re-rented the unit because he had to clean up and renovate, plus the Tenant left behind some things.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim.

I first turn to the Landlord's claim for compensation for unpaid rent for March 2019. I note the undisputed evidence indicates that the Tenant did not pay any rent for March 2019, despite living in the rental unit for the first part of the month. I acknowledge that there was a Notice issued in February 2019 for unpaid rent, and that the effective date of this Notice was the end of February 2019. However, I also note the Tenant filed to dispute this Notice, so it was unclear to the Landlord whether or not the Tenant was intending to move out or to stay and try to dispute the Notice. Then, when the Tenant did move out, it was part way through the month of March, and the Landlord did not receive the keys back to the rental unit until March 15, 2019. I also note the Tenant left behind his truck canopy and did not completely vacate the rental unit. Having considered all of this, I find the Tenant is responsible for March 2019 rent, in full, totaling \$700.00.

Next, I turn to the Tenant's application for a rent reduction for repairs, services or facilities agreed upon but not provided. I have considered the evidence and testimony presented by the Tenant at the hearing. I note the following portion of the Rules of Procedure:

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent.

I note the Tenant provided some photos, but did not speak to or explain these photos in the hearing. At the hearing, I prompted the Tenant to explain how he arrived at the amount of \$700.00 he arrived at for his "rent reduction." I find the Tenant's explanation lacked clarity and detail. The Tenant expressed that part of this was for his security deposit of \$350.00 and some of this was for work he had done for the Landlord but was not paid for. In any event, the Tenant has failed to sufficiently explain how he arrived at the \$700.00 he is seeking, for what periods it was for, and how any of the deficiencies

he identified with the rental unit impacted his use of the space. I find the Tenant has not met the burden of proof, incumbent on him, to support, substantiate and prove the basis for his claim. I find the Tenant's application on this matter and his explanation at the hearing for this item was difficult to understand. It also appeared the Landlord was not clear on how the rent reduction claim would be or could be warranted.

I dismiss the Tenant's application for a rent reduction, in full, without leave to reapply.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was substantially successful with his application, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution. Also, I authorize the Landlord to retain the security deposit to offset the other money owed.

In summary, I find the Landlord is entitled to the following monetary order:

Item	Amount
March 2019 rent	\$700.00
Filing Fee	\$100.00
LESS: Security Deposit	\$350.00
Total Amount	\$450.00

Conclusion

The Landlord is granted a monetary order in the amount of **\$450.00**, as specified above. This order must be served on the Tenants. If the Tenants fail to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be 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: April 3, 2019

Residential Tenancy Branch