



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of the security deposit - Section 38;
2. A Monetary Order for compensation - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Landlord confirms its email address as set out in the Tenants’ application.

Preliminary Matter

The Tenants have claimed **\$370.00** for the return of the security deposit and **\$13.91** in mailing costs. The Landlord does not dispute these claims.

The Landlord argues that Tenant JG (the “Tenant”) was not a tenant at the unit and did not sign the tenancy agreement. The Landlord states that the Tenant moved in later and was not there the entire tenancy. The Landlord provides an agreement that sets out both Tenant names but is only signed by Tenant GC. The Tenant states that when Tenant GC signed the tenancy agreement the Tenant was out of town. The Tenant states that it signed the tenancy agreement a couple of days later. The Tenant states that it moved into the unit from out of town on October 1, 2019 and resided there to the

end of the tenancy. The Tenant provides a copy of a tenancy agreement with its signature.

Section 13(2) of the Act provides that a tenancy agreement must set out the correct legal names of the landlord and tenant. Although the Landlord's copy of the tenancy agreement does not contain the Tenant's signature, it clearly sets out the Tenant's name as a tenant to the agreement. The Tenants' copy provided as evidence also sets out the Tenant's name as a tenant to the agreement. As the Landlord offered the tenancy agreement to both Tenants and accepting the Tenant's evidence that it signed the tenancy agreement later and moved into the unit from the start, I find that the Tenant is a tenant under the Act and tenancy agreement.

Issue(s) to be Decided

Are the Tenants entitled to compensation for loss of income and storage fees?

Are the Tenants entitled to recovery of the filing fee?

Relevant Background and Evidence

The tenancy under written agreement started on October 1, 2018 and ended September 30, 2019. Rent of \$2,400.00 was payable on the first day of each month. The tenancy agreement includes an addendum reducing the rent by \$100.00 for October, November and December 2019.

The Tenant states that the rent reduction was for allowing the Landlord to store items in the recreation room in the unit. The Tenant states that the Landlord had been told at the onset of the tenancy that the garage provided with the tenancy would be needed by the Tenants. The Tenant states that the agreement to allow the Landlord to store items was only to the end of December 2019. The Tenant states that between January 2019 and the end of the tenancy the Landlord was repeatedly asked to remove its items. The Tenant states that the Landlord moved its items into the garage for storage and left them there to the end of the tenancy. The Tenant states that the Landlord's offer to

continue a rent reduction was not accepted by the Tenants who then paid full rent. The Tenant states that prior to January 2019 its belongings were in another city and elsewhere. The Tenant states that since it could not move its belongings into the unit the Tenant had to pay for storage costs. The Tenant claims the monthly cost of \$330.73 for the costs of storage between January and September 2019 inclusive.

The Landlord states that an oral agreement was reached with Tenant GC for a rent reduction to the end of March 2019. The Landlord provides banking evidence showing rent payments of \$2,300.00 to and including March 2019 rent. The Landlord states that after this date their items were moved into the garage with the Tenant GC's agreement and that the Tenants thereafter paid full rent. The Landlord provides banking evidence showing rent payments of \$2,400.00 to the end of the tenancy. The Tenant states that Tenant GC was not available to attend the hearing to give evidence due to being in self-isolation.

The Tenant states that on April 9, 2019 the Landlord was given a city form to sign that would allow the Tenant to work from home. The Tenant states that the Landlord refused to sign the form. The Tenant states that there is nothing in the tenancy agreement that required the Landlord to sign the form. The Tenant argues that since the Landlord was aware that the Tenant worked from home it was therefore required to sign the form. The Landlord argues that an awareness does not create an agreement. The Landlord argues that if this was a requirement for the Tenant in this tenancy it should have been in the tenancy agreement or addendum. The Landlord argues that nothing in the Act requires the Landlord to act in relation to signing a work from home form. The Tenant states that it could not have obtained the Landlord's agreement at the outset of the tenancy as the Tenant did not know the form would be required.

Analysis

Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage

or loss that results. In making its claim the Tenant carries the burden of proof. Given the Landlord's evidence of an agreement with Tenant GC for the rent reduction and considering the supporting banking evidence I find on a balance of probabilities that the Tenant has not substantiated that the Landlord breached this agreement for a rent reduction to the end of March 2019. Although the Landlord only gives oral evidence that Tenant GC agreed to have the Landlord's items in the garage without a rent reduction from April 2019 to the end of the tenancy, the Tenant provided no witness evidence from Tenant GC to dispute this evidence. Although it may be accepted that Tenant GC was in isolation at the time of the hearing there is no evidence that this Tenant could not participate by teleconference or provide a written statement for the dispute without affecting its self-isolation. There is no evidence that the Tenant did not know prior to the hearing of the Landlord's evidence of agreement with Tenant GC or did not receive the Landlord's evidence of this agreement in advance of the hearing. As the Tenant did not provide evidence from Tenant GC in the circumstances, I take a negative inference that the evidence from Tenant GC would not be helpful to the Tenant's claim. As a result, I find on a balance of probabilities that the Tenants, through Tenant GC, agreed to the Landlord's use of the garage for no rent reduction from April to the end of the tenancy. I therefore dismiss the Tenants' claim for compensation in relation to the loss of any space used by the Landlord's during the tenancy.

While the Tenant's evidence is that the Landlord was aware of the Tenant working from home, the Tenant provided no legal basis for the argument that this gives rise to an agreement to do something in relation to this awareness, particularly to agree to sign a form for home-based work. Further, the Tenant carries its own obligations to ensure that it knows the work requirements for the jurisdiction that the Tenant relocated to for the tenancy. As the tenancy agreement does not require the Landlord to act in relation to signing a work from home form, as there is no evidence of any oral agreement by the Landlord to sign the form and as there is nothing in the Act that would required the Landlord to sign such a form I find on a balance of probabilities that the Tenant has not shown that the Landlord breached the Act or the tenancy agreement. I therefore

dismiss the claim for compensation in relation to the form not being signed by the Landlord.

As the Tenants have been successful with its claims for the return of the security deposit and mailing costs, I find that the Tenants are entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$483.91**. I order the Landlord to pay the Tenant this amount forthwith.

Conclusion

I grant the Tenants an order under Section 67 of the Act for **\$483.91**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: March 23, 2020

Residential Tenancy Branch