



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDL-S, MNRL-S, MNDCL-S, FFL

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for unpaid rent, for a monetary Order for damage to the rental unit; to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution. At the hearing the Landlord stated that no security deposit was paid, and he withdrew the application to retain the security deposit.

The Landlord stated that on November 07, 2019 the Dispute Resolution Package and the evidence the Landlord submitted to the Residential Tenancy Branch were sent to the female Tenant's current residential address. The Landlord cited a tracking number that corroborates this statement. He stated that the Canada Post website shows that this package was received by the female Tenant on November 12, 2019.

The Landlord stated that on November 07, 2019 the Dispute Resolution Package and the evidence the Landlord submitted to the Residential Tenancy Branch were sent to the male Tenant's current residential address. The Landlord cited a tracking number that corroborates this statement. He stated that the Canada Post website shows that this package was received by the female Tenant on November 19, 2019.

On the basis of the undisputed testimony of the Landlord I find that the aforementioned documents have been served to the Tenants in accordance with section 89 of the *Residential Tenancy Act (Act)*. As the documents were properly served to the Tenants,

the hearing proceeded in their absence and the evidence was accepted as evidence for these proceedings.

The Landlord was given the opportunity to present relevant oral evidence and to make relevant submissions. The Landlord affirmed that he would provide the truth, the whole truth, and nothing but the truth at these proceedings.

Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit and to compensation for unpaid rent?

Background and Evidence

The Landlord stated that:

- the tenancy began on March 13, 2018;
- the rental unit was vacated sometime in July of 2019;
- the Tenants agreed to pay monthly rent of \$950.00 by the first day of each month;
- he agreed that the Tenants would not have to pay rent for any part of March or April of 2018, in exchange for work completed on the rental property; and
- the Tenants paid no rent for any period in the tenancy.

The Landlord is seeking compensation for unpaid rent, in the amount of \$16,150.00, at a rate of \$950.00 per month, for the period between May 01, 2018 and August 31, 2019.

The Landlord submitted a copy of a decision, dated January 16, 2019, in which a Residential Tenancy Branch Arbitrator concluded that rent for this unit was \$700.00 per month and that the Tenants were to be credited \$250.00 per month for working on the property.

The Landlord is seeking compensation, in the amount of \$6,575.25, for damage done to the rental unit. On the basis of the document dated October 16, 2019, it appears that these damages include \$4,375.25 for cleaning garbage from the yard; \$1,450.00 for electrical repairs; and \$750.00 to repair a beam.

In support of the claim of \$1,450.00 for electrical repairs, the Landlord stated that:

- the Tenants bypassed the hydro meter;
- as a result, his service provider “condemned” the house;

- he paid \$1,450.00 to an electrician to install a new meter and to have the service reconnected; and
- he did not submit copies of receipts for those costs.

In support of the claim of \$4,375.25 for cleaning the yard, the Landlord stated that:

- the Tenants left a large amount of debris on the property;
- he paid \$2,919.25 to remove the debris, which included renting disposal bins and paying for dump fee; and
- he paid “seasonal pickers” \$2,016.00 in wages, at hourly rates between \$12.00 and \$15.00, for helping to clear the property.

The Landlord submitted receipts that corroborate his testimony that he paid bin rental fees and dump fees of \$2,219.25. He stated he was unable to submit documentary evidence of the wages he paid, as he paid those workers in cash.

The Landlord submit photographs that corroborate his testimony that a large amount of debris was left on the property.

In support of the claim of \$750.00 for replacing a structural beam, the Landlord stated that:

- the Tenants removed a bearing wall in the unit;
- the Tenants replaced it with a substandard beam;
- he and two other people replaced the structural beam; and
- they spent approximately 90 hours replacing the beam.

The Landlord is seeking compensation, in the amount of \$12,274.75, for property that was removed from the rental unit/property. The Landlord submitted a list of property that he stated was in the rental unit or on the rental property at the start of the tenancy but was missing at the end of the tenancy. He stated that some of the stolen items were being stored on site, such as sheets of drywall, and others had been affixed, such as an air conditioning unit.

In the list of stolen property, which is dated October 15, 2019, the Landlord provided estimates of the cost of replacing the missing property, which exceeds the claim of \$12,274.75. The Landlord stated that he did not submit any documents to support his estimated cost of replacing the property the Tenants removed from the rental unit/property. He stated that he determined the costs recorded on his list by searching the stolen items on a popular website.

Analysis

On the basis of the Residential Tenancy Branch decision submitted in evidence, dated January 16, 2019, I find that a Residential Tenancy Branch Arbitrator has previously concluded that rent for this unit was \$700.00 per month, as the Tenants were to be credited \$250.00 per month for working on the residential property. As this matter has been previously determined by a proper authority, I am unable to reconsider the amount of rent payable at these proceedings. Rather, I must accept the previous Arbitrator's decision that the Tenants were required to pay monthly rent of \$700.00.

On the basis of the undisputed evidence I find that the Tenants did not pay any rent for the period between May 01, 2018 and July 31, 2019. Section 26 of the *Residential Tenancy Act (Act)* requires tenants to pay rent when it is due. As no rent was paid for these 15 months and the Tenants were required to pay \$700.00 in rent for each of those months, I find that the Tenants must pay \$10,500.00 in rent to the Landlord.

On the basis of the undisputed evidence I find that the Tenants vacated the rental unit sometime in July of 2019. As the Tenants did not occupy the rental unit in August of 2019, I dismiss the Landlord's claim for rent for that month. I note that the Landlord did not claim compensation for lost revenue for August of 2019.

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

Section 37(2)(a) of the *Act* stipulates 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.

On the basis of the undisputed evidence I find that the Tenants failed to comply with section 37(2) of the *Act* when the Tenants did not repair the electrical system that they altered during their tenancy.

In addition to establishing that a tenant damaged a rental unit, a landlord must also accurately establish the cost of repairing the damage caused by a tenant, whenever compensation for damages is being claimed. I find that the Landlord submitted insufficient evidence to support his testimony that it cost \$1,450.00 to repair the electrical system. In reaching this conclusion I was strongly influenced by the absence of any documentary evidence, such as a receipt, that corroborates his testimony. When receipts are available, or should be available with reasonable diligence, I find that a party seeking compensation for those expenses has a duty to present the receipts.

As the Landlord did not submit documentary evidence to show he incurred costs of \$1,450.00 to repair the electrical system, I dismiss his claim for compensation for that repair.

On the basis of the undisputed evidence I find that the Tenants failed to comply with section 37(2) of the *Act* when they vacated the unit without clearing the property of debris they left on the property.

As the Landlord submitted documentary evidence to show he paid bin rental fees and dump fees of \$2,919.25 for cleaning the debris, I find that he is entitled to recover those costs.

On the basis of the undisputed evidence I find that the Landlord also paid seasonal workers \$2,016.00, in cash, to help clear the property. As these wages were paid in cash, I find it reasonable that the Landlord did not submit evidence of this payment.

I find that the Landlord is entitled to the full amount of his claim for cleaning the property, which is \$4,375.25. This includes \$2,919.25 for the bin/dump fees and \$1,456.00 for wages. I am unable to award compensation for the full amount the Landlord paid for wages, as that would exceed the amount of his total claim of \$4,375.25 for cleaning the yard.

On the basis of the undisputed evidence I find that the Tenants failed to comply with section 37(2) of the *Act* when the Tenants removed a bearing wall and replaced it with a substandard support beam. I find that the Landlord is entitled to compensation for the

90 hours he and others spent repairing the beam. I find that the Landlord's claim of \$750.00 for this amount of time is more than reasonable and I grant that claim.

On the basis of the undisputed evidence I find that the Tenants failed to comply with section 37(2) of the *Act* when the Tenants removed items from the rental unit/property and did not return or replace them at the end of the tenancy.

In addition to establishing that the Tenants removed property from the rental unit/property, the Landlord must also accurately establish the cost of replacing the missing items. I find that the Landlord submitted insufficient evidence to support his estimates of the value of the missing items. In reaching this conclusion I was strongly influenced by the absence of any documentary evidence, such as a record of an internet search, that corroborates his testimony that he determined the value of the stolen items by searching them on a popular website. When such documentation is available, or should be available with reasonable diligence, I find that a party seeking compensation for those expenses has a duty to present the evidence.

As the Landlord did not submit documentary evidence to establish the value of the missing property, I dismiss his claim for compensation for the missing property.

I find that the Landlord's Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of \$15,725.25, which includes \$10,500.00 in unpaid rent, \$4,375.25 for cleaning the yard, \$750.00 for replacing a beam, and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution.

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 10, 2020

Residential Tenancy Branch