



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, MNDCL, MNRL-S, FFL

Introduction

This hearing was convened by way of conference call concerning an application made by the landlords seeking the following relief:

- A monetary order for damage to the rental unit or property;
- A monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement;
- A monetary order for unpaid rent or utilities;
- An order permitting the landlords to keep all or part of the security deposit or pet damage deposit; and
- To recover the filing fee from the tenants for the cost of the application.

One of the landlords and one of the tenants attended the hearing, and the tenant was accompanied by an agent. The landlord and the tenant gave affirmed testimony, and the landlord and the tenants' agent were given the opportunity to cross examine and give submissions.

No issues with respect to service or delivery of documents or evidence were raised, and all evidence provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Have the landlords established a monetary claim as against the tenants for damage to the rental unit or property?
- Have the landlords established a monetary claim as against the tenants for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for costs incurred for pest removal?

- Have the landlords established a monetary claim as against the tenants for unpaid rent?
- Should the landlords be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord testified that this tenancy began on April 1, 2019 with a fixed term to expire on March 31, 2020, thereafter reverting to a month-to-month tenancy, which ultimately ended on March 31, 2020. Rent in the amount of \$1,625.00 per month was originally payable under the tenancy agreement but was raised to \$2,000.00 per month effective in January, 2020 by mutual agreement of the parties. At the outset of the tenancy the landlords collected a security deposit from the tenants in the amount of \$812.50 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is a basement suite, and the landlords reside in the upper level of the home. A copy of the tenancy agreement has been provided for this hearing, but it is difficult to read.

The landlord further testified that the parties had verbally agreed to the rental increase when a sister of one of the tenants moved in, but not in writing. The landlords had intended to rent to 2 people.

On March 17, 2020 the tenants gave notice to end the tenancy effective March 31, 2020. The parties had a discussion at that time wherein the parties agreed that if the tenants had found suitable tenants to move in on April 15, 2020, the landlords would be fine with the late notice given by the tenants. The tenants also agreed to pay rent for the month of April if no tenants were found. The tenants did not find new tenants and did not pay April's rent, and the landlords claim \$2,000.00.

The landlords also claim rent for a further month due to the rental unit being uninhabitable due to rodents. On numerous occasions the tenants left garbage outside the back door for several days at a time, despite being asked the landlords to put their garbage in the bins to prevent attracting rodents. The tenants continued to leave garbage outside the back door, and rats infested. The landlords had to retain the services of an exterminator, but the rats had given birth and multiplied. The smell of rat urine and feces is in the walls and is not tolerable to the landlord's family, and the rental unit could not be, and still cannot be re-rented. The landlords have been renting the rental unit for about 6 years and previous tenants didn't cause that problem because they didn't leave garbage outside the back door.

The landlords have provided a receipt for the pest control totalling \$577.50 which is dated April 10, 2020 and another receipt for the partial payment dated March 26, 2020; the exterminators had to return because the rats had multiplied.

The tenants have not served the landlords with an Application for Dispute Resolution claiming the security deposit, and have not provided the landlords with a forwarding address in writing.

The tenant testified that the tenants did not agree to the rent increase, but assumed they had no choice because they were on a 1 year lease, and assumed that adding another tenant meant adding further rent.

The tenants attempted to find another tenant to take over the lease by putting an advertisement on Craigslist. They received a few requests and did some showings to help the landlord even though the lease was running out. When asked if the tenant recalled a telephone conversation with the landlord that the tenants would pay rent for April, 2020 if they could not find another tenant, the tenant said he did not recall that. He testified that the lease was ending on March 31, 2020 and he was trying to help, but has no other reason for placing advertisements to re-rent.

No move-in or move-out condition inspection reports were completed.

Analysis

Firstly, where a fixed-term in a tenancy agreement expires, it reverts to a month-to-month tenancy. That does not give the tenants the right to move out at the end of the fixed term. The tenants must give the landlords notice to end the tenancy the day before rent is payable, which must be effective no sooner than the end of the following month. In this case, the tenants gave notice to vacate during the month of March, 2020, which does not take effect until April 30, 2020. Therefore, I find that the tenants are obligated to pay rent to the end of April, 2020.

The tenant did not dispute that the landlords asked the tenants to ensure garbage is taken to the bins and on several occasions the tenants did not do so. The tenant did not dispute the landlord's testimony that the garbage attracted rats. I accept the undisputed testimony of the landlord that the tenants caused the landlords to incur the \$577.50 pest control costs. I also find that the landlords have established a claim for loss of rental revenue due to the intolerable smells and disturbance of rats.

With respect to quantum, the tenant disagreed with the landlord's testimony that the parties had mutually agreed to the increased rent, testifying that the tenants assumed

they had no choice. The tenants had the opportunity to dispute the rental increase but did not do so. I have no applications before me with respect to any claims that the tenants may have with respect to the rental increase. The tenant agrees that the sum of \$2,000.00 per month was paid by the tenants for the rent commencing in January, 2020, and I find that the landlords have satisfied that amount.

Therefore, I find that the landlords have established the claim of \$2,000.00 for unpaid rent for April, 2020 as well as \$2,000.00 for loss of rental revenue.

I am also satisfied that the landlords have satisfied the \$577.50 claim for pest control.

Since the landlords have been successful with the application, the landlords are also entitled to recovery of the \$100.00 filing fee.

I order the landlords to keep the \$812.50 security deposit in partial satisfaction of the claim and I grant a monetary order in favour of the landlords for the difference in the amount of \$3,865.00 ($\$2,000.00 + \$2,000.00 + \$577.50 + \$100.00 = \$4,677.50 - \$812.50 = \$3,865.00$).

Conclusion

For the reasons set out above, I hereby order the landlords to keep the \$812.50 security deposit and I grant a monetary order in favour of the landlords as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$3,865.00.

This order is final and binding and may be enforced.

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 31, 2020

Residential Tenancy Branch