



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Sincere Real Estate Service Ltd.
and [tenant name suppressed to protect privacy]

DECISION

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

Introduction

This hearing was scheduled to deal with cross applications. The tenants applied to cancel a 10 Day Notice to End tenancy for Unpaid rent. The landlord applied for a Monetary Order for unpaid rent, utilities, and cleaning costs; and, authorization to retain the security deposit.

Both parties appeared or were represented at the hearing and had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

I confirmed the tenants had served their Application for Dispute Resolution upon the landlord. However, the tenants subsequently vacated the rental unit and I confirmed they have returned possession of the rental unit to the landlord. Accordingly, I find the tenant's application to be moot and it is unnecessary for me to determine whether the tenancy should continue or end or whether the landlord is entitled to an Order of Possession. Therefore, the tenant's application is dismissed.

As for the landlord's Application for Dispute Resolution, I heard that it was sent to the tenants at their new address of residence on November 20, 2020 via registered mail; however, the registered mail was returned to the landlord as unclaimed. The landlord then had the hearing packages served upon the male tenant, in person, on January 5, 2021. I confirmed the landlord used the correct address for the tenants in sending the registered mail. The tenants explained that they have had some issues receiving their mail at times. The tenants confirmed that in receiving the landlord's documents on January 5, 2021 they both had opportunity to review the documents and were prepared to respond to them. Accordingly, I deemed the tenants sufficiently served and I proceeded to hear the landlord's claims.

On another note, I noted that the name of the female tenant was different on two applications before me. The female tenant confirmed that her legal name is that reflected on the landlord's Application for Dispute Resolution. As such, the style of cause reflects the female tenant's name as reflected on the landlord's Application for Dispute Resolution.

I also noted that the name of the landlord was different on the applications before me. The tenants had named the property management company they dealt with throughout their tenancy. I noted that the tenancy agreement reflects the landlord as being the property management company acting on behalf of an individual who is named on the landlord's Application for Dispute Resolution. The property management company agent confirmed that she had named the owner of the property in filing the landlord's Application for Dispute Resolution but the property management company still has authority to act for the owner. The agent for the landlord was agreeable to naming the landlord as being the property management company. Accordingly, the style of cause reflects the property management company as the landlord.

Issue(s) to be Decided

1. Is the landlord entitled to recover the amounts claimed for rent, utilities and cleaning costs?
2. Is the landlord authorized to retain the tenant's security deposit?
3. Award of the filing fee.

Background and Evidence

The facts of this case were essentially undisputed. The tenancy started on June 1, 2019 for a fixed term that expired on May 1, 2020 and then continued on a month to month basis. The tenants paid a security deposit of \$2500.00 and were required to pay rent of \$5000.00 on the first day of every month. The tenants were also required to pay utilities for the property.

The tenants fell behind in their rent payments after the Covid-19 pandemic struck. The parties were in agreement that for the period of April 2020 through October 2020 the tenants failed to pay the landlord rent in the sum of \$17000.00.

The tenants vacated the rental unit on October 31, 2020 and at the move-out inspection the tenants authorized the landlord to retain the security deposit.

The landlord also claimed for utilities (water, sewer, garbage) for the period of July 2020 – September 2020 in the amount of \$717.17 and estimated the water, sewer, garbage utilities for the month of October 2020 to be \$220.75 based on the utility bill for the same period of the previous year. The tenants agreed they owe the amount claimed by the landlord for utilities.

The landlord also claimed to recover carpet cleaning costs of \$525.00, including tax, to clean the carpets after the tenancy ended. The landlord submitted a receipt in support of this claim. The tenants acknowledged they did not clean the carpets before they were required to vacate the property at 1:00 p.m. on October 31, 2020 and the tenants did not object to this claim.

Analysis

Upon consideration of the unopposed evidence before me, I provide the following findings and reasons.

Section 26 of the Act provides that a tenant is required to pay rent when due under the tenancy agreement, unless the tenant has a legal right to withhold rent. During the Covid-19 pandemic, a landlord was precluded from evicting a tenant for unpaid rent incurred between March 18, 2020 and August 17, 2020 (“affected rent”); however, unpaid rent was not extinguished or waived by the government orders and the tenants remain liable to pay the rent to the landlord. Starting in August 2020 the landlord may issue a repayment plan to the tenant to require the tenant to start repaying a portion of the “affected rent” over time, starting October 1, 2020, to continue the tenancy. Where the tenancy comes to an end, the landlord is entitled to a Monetary Order for all of the outstanding rent. In this case, the tenancy has ended and it is undisputed that the tenants owe the landlord \$17000.00 in unpaid rent and I award the landlord unpaid rent in that amount.

The tenancy agreement provides that rent does not include utilities and it was undisputed that the tenants owe the landlord for the water, sewer and garbage utilities for the period of July 2020 through October 2020, as claimed. Therefore, I award the landlord utilities in the total amount claimed of \$937.92.

Section 37 of the Act provides that a tenant is required to leave the rental unit reasonably clean at the end of the tenancy, which was 1:00 p.m. on October 31, 2020. The tenants acknowledged they did not have the carpets cleaned by the end of their

tenancy and they did not object to compensating the landlord the amount expended on carpet cleaning costs of \$525.00. Therefore, I award that amount to the landlord.

I also award the landlord recovery of the \$100.00 filing fee paid for the landlord's Application for Dispute Resolution.

The tenants have authorized the landlord to retain their security deposit and, as such, \$2500.00 is used to partially offset the amounts owed to the landlord in calculating the Monetary Order, as set out below.

In keeping with all of the above, I provide the landlord with a Monetary Order to serve and enforce upon the tenants, calculated as follows:

Unpaid rent (April 2020 – October 2020)	\$17000.00
Utilities (water, sewer, garbage July 2020 – October 2020)	937.92
Carpet cleaning	525.00
Filing fee	100.00
Less: security deposit	<u>(2500.00)</u>
Monetary Order	\$16062.92

Conclusion

The landlord has been authorized to retain the security deposit and has been provided a Monetary Order in the net amount of \$16062.92 to serve and enforce upon the tenants.

The tenancy has already ended and the tenant's application was dismissed as being moot.

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: January 13, 2021

Residential Tenancy Branch