



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, FF

Introduction

This hearing dealt with an application by the Landlord for an order for monetary damages arising from the Tenant breaking a fixed term lease early, for cleaning the rental unit, for NSF cheques, to keep all or part of the security deposit and to recover the filing fee for the Application.

An Agent for the Landlord appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent testified that the Tenant was served with the Notice of Hearing and the Application for Dispute Resolution by registered mail, sent on November 20, 2009. The Landlord had provided tracking information from the postal service that the Tenant had received the documents on November 26, 2009. Despite this, the Tenant did not appear at the hearing. I find the Tenant has been served in accordance with the Act.

Issues(s) to be Decided

Did the Tenant breach the Act or tenancy agreement, entitling the Landlord to monetary compensation?

Background and Evidence

On or about December 3, 2008, the Tenant and the Landlord signed the tenancy agreement. The length of the tenancy was agreed to be from December 3, 2008, until December 31, 2009. The monthly rent was set at \$1,000.00, although the first month was prorated due to starting on the third day of December.

The Tenant paid the Landlord a security deposit of \$500.00 on December 3, 2008. There was also a liquidated damages clause in the tenancy agreement which required the Tenant to pay the Landlord \$288.75 if the lease is terminated by the Tenant prior to its end date.

Sometime in June of 2009, the Tenant gave the Landlord written notice he was vacating the rental unit on or before June 30, 2009.

The Tenant had paid June 2009 rent to the Landlord, however, this cheque was returned due to insufficient funds.

The Tenant vacated the rental unit on or about June 23, 2009, and the Landlord was able to re-rent the unit for the last seven days of June 2009. The Landlord offered to settle the dispute with the Tenant and the Tenant accepted this, however, the cheque the Tenant gave to the Landlord in settlement was also returned for insufficient funds.

The Landlord alleges the Tenant left the rental unit without properly cleaning the stove and some shelves in the rental unit. The Landlord claims \$75.00 in cleaning costs.

Analysis

Based on the foregoing, the uncontradicted testimony and evidence, and on a balance of probabilities, I find that the Tenant has breached the Act and Tenancy Agreement by ending the tenancy earlier than the end date, by failing to pay rents, and by failing to clean portions of the rental unit when he vacated.

Under section 45 of the Act, the Tenant was not able to end the tenancy earlier than the end date established in the term agreement.

The Landlord mitigated the loss, as required by the Act, and had a new renter move into the rental unit on June 24, 2009. I find the Landlord is entitled to one month of lost rent due to the Tenant's breach, less the credit the Landlord has applied for the new renter, in the amount of **\$733.34**. I also order the Tenant to pay two (2) NSF charges to the Landlord totaling **\$50.00**.

Furthermore, I find that the Tenant shall pay **\$75.00** for cleaning and **\$50.00** for the application fee for the filing of this claim.

Therefore, I find that the Landlord has established a total monetary claim of **\$1,197.09**, comprised of the above described awards. I allow the Landlord to keep the security deposit and interest of **\$500.59**, in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$696.50**. This order may be filed in the Provincial Court (Small Claims) 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 *Residential Tenancy Act*.

Dated: March 25, 2010.

Dispute Resolution Officer