



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND, MNDC, MNR, SS, O, FF

Introduction

This hearing was convened by way of conference call to deal with the landlords' application for relief under the *Residential Tenancy Act*. The landlords have applied for: an order to recover the filing fee from the tenant for the cost of this application; for a monetary order for damage to the unit, site or property; for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for a monetary order for unpaid rent or utilities; and for an order permitting the landlords to serve documents or evidence in a different way than required by the *Act*.

The landlords all attended the hearing and gave evidence to support their claim. The tenant did not attend the conference call hearing.

The landlords stated at the outset of the hearing that the application and notice of hearing documents could not be served upon the tenant within 3 days of making the application, however provided evidence that the hearing package was served on the 4th day after making the application by way of registered mail, and testified the tenant had received the package the following day as evidenced by the Canada Post website. The application was made on March 25, 2010 and the package was sent on March 29, 2010. I find that there is no prejudice to the tenant, in that more than ample time has been provided for the tenant to respond to the application and sufficient notice has been provided respecting a hearing date, and therefore I hereby order that the service upon the tenant that has been effected by the landlords is sufficient service pursuant to my authority under Section 71 (2) (b) and (c) of the *Act*.

Issues(s) to be Decided

Are the landlords entitled to a monetary order for unpaid rent or utilities?

Are the landlords entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Are the landlords entitled to a monetary order for damage to the unit, site or property?

Background and Evidence

The landlords testified that they had secured the services of a property management company to rent their newly purchased and newly built condominium. The tenant rented the unit on February 28, 2010 and moved out on March 12, 2010 after the property manager discussed the payment of his first rent cheque being returned by the bank marked "N.S.F." The tenancy agreement was provided in advance of the hearing, and states that rent in the amount of \$1,300.00 is payable on the 1st day of each month. The landlords collected a security deposit from the tenant in the amount of \$650.00 on February 24, 2010. The landlords did not receive any notice from the tenant of his intention to vacate the premises, but were able to re-rent the unit on April 15, 2010. The landlords are claiming a full month rent for replacement of the NSF cheque, as well as half a month's rent for the month of April, 2010, for a total of \$1,950.00.

The landlords are also claiming damages to the unit even though the tenancy was short, but were not able to supply all of the evidence required to support that claim and applied to adjourn that portion of the hearing to another date. They testified that the condominium unit was brand new when the tenant moved in and that the tenant had a furniture business which required moving furniture in and out of the rental unit, and extensive damage was done to the unit and the common areas for which the landlords are being held responsible from the strata corporation. Not all of the costs associated to the damage are yet known.

Analysis

I accept the evidence of the landlords that the rent was not paid and that the tenant only resided in the unit for less than one month. The landlord also mitigated any future loss of rental revenue by re-renting the unit by April 15, 2010, and the landlords are claiming only half of that month's rent as well as for the month the tenant resided in the residence.

With respect to the claim for damages, I refer to Section 6.4 of the Residential Tenancy Branch Rules of Procedure which states that:

"Without restricting the authority of the dispute Resolution Officer to consider other factors, the Dispute Resolution Officer must apply the following criteria when considering a party's request for an adjournment of the dispute resolution proceeding:

- a) The oral or written submissions of the parties;
- b) Whether the purpose for which the adjournment is sought will contribute to the resolution of the matter in accordance with the objectives set out in Rule 1;
- c) Whether the adjournment is required to provide a fair opportunity for a party to be heard, including whether a party had sufficient notice of the dispute resolution proceeding;
- d) The degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment; and
- e) The possible prejudice to each party."

I find that the purpose for which the adjournment is sought will contribute to the resolution of the matter in accordance with the objectives set out in Rule 1 and that the adjournment will provide a fair opportunity for both the landlords and the tenant to be heard and that no party will be prejudiced by an adjournment. I also find that the landlords' request to adjourn does not arise out of intentional actions or neglect of the landlords, and therefore I adjourn that part of the application.

Conclusion

As for the application for a monetary order for unpaid rent, I find that the landlord has established a claim for \$1,950.00 in unpaid rent. The landlord is also entitled to

recovery of the \$50.00 filing fee. I order that the landlord retain the deposit and interest of \$650.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,350.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

With respect to the application for a claim for damages to the unit, site or property, I hereby order that the proceeding be reconvened as a teleconference hearing, on the date and time set out in the enclosed Notice of Reconvened Hearing. The landlord must serve the tenant with a copy of the attached Notice of Reconvened Hearing within **three (3) days** of receiving this decision.

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 22, 2010.

Dispute Resolution Officer