



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Landlords: MND, MNR, FF
 Tenants: MNSD, FF

Introduction

This hearing dealt with the cross Applications for Dispute Resolution with parties seeking a monetary order.

The hearing was conducted via teleconference and was attended by both landlords and the two applicant tenants.

This hearing was convened after the original Dispute Resolution Officer was unable to provide a decision from a previous hearing with these two parties on these issues due to circumstances beyond her control.

Issue(s) to be Decided

The issues to be decided are whether the landlords are entitled to a monetary order for unpaid utilities; for damage/cleaning to the rental unit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 67, and 72 of the *Residential Tenancy Act (Act)*.

It must also be decided if the tenants are entitled to a monetary order for double the amount of the security deposit and to recover the filing fee from the landlords for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Act*.

Background and Evidence

The tenants provided a copy of a tenancy agreement signed by three tenants on October 7, 2011 for a 4 month and 24 day fixed term tenancy beginning on October 7, 2011 that converted to a month to month tenancy on March 1, 2012 with a total security deposit of \$701.00 and a pet damage deposit of \$300.00 paid. The parties agree the tenancy ended on or before April 30, 2012 and the tenants provided the landlord with their forwarding address in writing at the same time.

The landlord testified that he had returned the pet damage deposit and a portion of the third tenant's security deposit less an agreed amount to the third tenant in the amount of \$454.01 within 15 days of the end of the tenancy. The landlords have provided a letter from the third tenant dated June 12, 2012 stating that her dealings with the landlord

have been reasonable and in her opinion are settled. The two applicant tenants have no testimony in regard to the third tenant's position on any of these issues.

The landlords seek compensation for unpaid utilities for hydro in the amount of \$52.62 and gas in the amount of \$30.19. The tenants do not dispute this amount but indicate until they received the landlord's evidence they had not received any copies of the bills in question.

The landlords also seek compensation for steam cleaning the stairs in the rental unit in the amount of \$93.45. The landlords submit that carpets on the stairs were filthy and that they were not vacuumed or steam cleaned. The tenants submit that they had not steam cleaned the stairs but they had thoroughly cleaned them including vacuuming. The tenants submit also that if they were not clean it is likely a result of the third tenant's cat.

The landlords seek compensation for charges for satellite television usage and cancellation charges. The landlords submit that when the tenants moved into the rental unit they agreed to get satellite television through the landlords when they obtained a special deal from the service provider. The landlord testified this service was available from the start of the tenancy.

The tenants submit that they did not have the intention of hooking up to cable or any additional television services when they first moved in but the landlords came to them in November 2011 to see if they would be interested in the service and they agreed. The tenants further submit that in March 2012 they decided they no longer wanted the service, but the landlords required 30 days notice to cancel the service.

The landlords seek compensation for the last month of service. In addition the landlord states that when the tenants no longer wanted the service he had to cancel it and, as such, the tenants are responsible for the charges he incurred for cancelling the contract with the service provider. The landlord explained that when he cancelled the contract he had to pay for cancelling the service prior to two years of service.

The tenants submit that as their fixed term ended in February 2012 there is no way they would have agreed to a contract that was two or three years in duration. Further the tenants assert that they did not have a contract with the service provider.

The landlords provided a copy of a letter he sent to the tenants indicating there was a \$100.00 cancellation fee; 30 day notice required; and loss of a \$60 credit. The landlords did not provide a copy of the contract.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

As the tenants agree they owe the landlords for hydro and gas in the amount of \$82.81, I find the landlords are entitled to this compensation. In relation to the landlords' claim for compensation for satellite television service, I accept the landlords facilitated the provision of the service through a promotional deal that bound the recipient of the service to certain contractual obligations.

I also accept from the landlord's testimony that the service provider required 30 days notice and certain financial charges for failing to fulfill the duration of the contract. However, in the absence of any agreement with the service provider that names the tenants as parties to that contract or without their signatures on such a contract, I find the tenants are under no obligation to the contract or service provider itself.

Further, as there are no additional terms in the tenancy agreement that note the tenants' obligations to the landlords for any television service, such as is described in the tenancy agreement in relation to the tenants' obligations for 2/3 of the hydro and gas, I find the landlords have failed to establish that these charges result from a violation of the *Act*, regulation or tenancy agreement and I dismiss this portion of the landlords' Application.

Residential Tenancy Policy Guideline 1 states that tenants may be expected to steam clean or shampoo the carpets at the end of a tenancy agreement, regardless of the length of the tenancy if they had pets. I accept, from the tenants' testimony that they did vacuum the stairs but that they did not steam clean or shampoo them.

In addition the tenants acknowledge the stairs were likely dirty because of the third tenant's cat. As all three tenants are jointly responsible for the obligations under the tenancy agreement (see below), I find the landlord is entitled to compensation for cleaning the stairs in the amount of \$93.45 as supported by the receipts submitted.

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

I note that while the landlords submitted their Application for Dispute Resolution on April 27, 2012 the Application sought a monetary order for unpaid utilities and that the

landlords amended their Application on June 13, 2012 to include a monetary order for damage to the unit, site or property, the landlord at no time submitted an Application for Dispute Resolution seeking a monetary order to keep all or part of the pet damage deposit or security deposit.

As such and combined with the testimony of both parties that the landlord received the tenants' forwarding addresses on or before April 30, 2012, I find the landlord has failed to comply with Section 38(1) by failing to submit an Application to claim against the security deposit or return the deposits within 15 days.

However, in the case of the pet damage deposit, I accept, in the absence of any testimony to the contrary that the landlords have returned the pet damage deposit in accordance with Section 38(1). I also accept the landlord had permission from the third tenant to withhold \$79.59 from the amount returned to her.

I also note that there was one tenancy agreement that listed all three tenants as co-tenants. This is consistent with Residential Tenancy Policy Guideline 13 that states that co-tenants are two or more tenants who rent the same property under the same tenancy agreement. Co-tenants are jointly responsible for meeting the terms of the tenancy agreement and have equal rights under the tenancy agreement.

As such the security deposit held during the tenancy was one security deposit for the entire tenancy and the landlords' obligations were to return *all* of the security deposit or file an application to retain it. The landlords could not treat the security deposits as three individual deposits.

As per the testimony provided by the landlord in the hearing that the total deposit was \$701.00 at the end of the tenancy, I find, in accordance with Section 38(6) the tenants are entitled to double this amount, less any amounts paid out to the third tenant and the amounts above I have found the landlords are entitled to.

Conclusion

I find the tenants are entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1146.15** comprised of \$1,402.00 double the amount of the security deposits; less \$79.59 returned to the third tenant; less \$93.45 for carpet cleaning; less \$82.81 for hydro and gas.

This order must be served on the landlords. If the landlords fail to comply with this order the tenants may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

As both parties were, at least, partially successful in their claims I dismiss both claims to recover the filing fee from the other party.

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 23, 2012.

Residential Tenancy Branch