



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MND, MNR, MNSD, MNDC, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for compensation for damage to the rental unit, unpaid rent, compensation for damage or loss under the Act, to retain the security deposit and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that on October 15, 2012, each tenant was served copies of the Application for Dispute Resolution and Notice of Hearing sent via registered mail to the forwarding address providing in writing by the tenants on August 23, 2012. A Canada Post tracking number, receipt and the returned mail was provided as evidence of service. The returned mail was marked as unknown/moved. The address given was that of 1 of the tenant's mothers.

These documents are deemed to have been served in accordance with section 89 of the Act; however neither tenant appeared at the hearing.

Preliminary Matter

Two days after the evidence package was sent to the tenants via registered mail, tenant S.M. went to the landlord's office. He had a copy of the detailed calculation of the claim that had been included with the evidence. S.M. paid the balance that showed owing on the detailed calculation of the claim contained in the evidence. The balance owed had included a deduction for the value of the deposit; however, the tenant was not asked at that time to sign a document agreeing the landlord could retain the deposit. Therefore, even though the landlord has been given payment for the balance of the amount claimed, they felt compelled to proceed with their claim against the deposit.

Issue(s) to be Decided

Is the landlord entitled to compensation for damage to the rental unit in the sum of \$648.19?

Is the landlord entitled to compensation in the sum of \$192.25 in utility costs?

May the landlord retain the deposit paid by the tenants?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy agreement commenced January 1, 2012; rent was \$1,000.00 per month; with a \$50.00 per month credit if the yard to the home was maintained. A deposit in the sum of \$500.00 was paid.

On August 23, 2012 the tenants gave Notice they would vacate September 30, 2012. The tenants did not attend the condition inspection that was to take place on September 30 at 10 a.m.

The landlord supplied a package of evidence which included, in part, the following documents:

- The tenancy agreement that included a term requiring the tenants to pay utility costs;
- Condition inspection reports;
- Notice given ending the tenancy that included a forwarding address;
- Photographs taken of the unit at the end of the tenancy;
- A security deposit deduction document;
- City of Penticton confirmation of \$192.25 owed in hydro;
- October 2, 2012 invoice for cleaning in the sum of \$240.00;
- Toilet repair, landscaping and garbage removal invoice dated October 26, 2012 for work completed on October 1, 2012 in the sum of \$215.94;
- A copy of an employee time sheet for work completed at the unit on October 1, 2012; and
- An October 10, 2012 invoice for toilet parts.

The tenants did not clean the house; the yard was left in a poor state, garbage remained in the home and the tenants had attempted to repair the toilet which caused further damage.

The tenants paid rent to September 30, 2012; the landlord applied for dispute resolution within 15 days.

Analysis

In the absence of evidence to the contrary, I find that the tenants failed to leave the rental unit reasonably clean, as required by the Act. I find that the photographic evidence, the completed inspection reports and invoices supplied support the landlord's claim, as made.

The tenants had agreed they would meet the landlord at the rental unit on September 30, 2012 and while they did not, eventually the tenants appear to have shown good faith, by attending at the landlord's office to make payment of the sum that could now be ordered owing.

Therefore, based on the evidence before me I find that the tenants breached the Act by failing to pay the utility costs, not leaving the unit and yard in a reasonable state and damaging the toilet and that landlord is entitled to compensation as claimed.

I find that the landlord's application has merit that the landlord is entitled to recover the \$50.00 filing fee from the tenants for the cost of this Application for Dispute Resolution.

I find that the landlord is entitled to retain the tenant's security deposit in partial satisfaction of the monetary claim.

As the landlord has confirmed the tenants have paid the balance owed; \$198.19; there is no need for a monetary Order to the landlord.

Conclusion

The landlord is entitled to compensation as claimed.

The landlord may retain the deposit.

The landlord is entitled to filing fee costs.

The tenants have paid the amount owed to the landlord.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 10, 2013.

Residential Tenancy Branch

