



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a monetary order for unpaid rent, to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Agent for the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent for the Landlord testified that the Application for Dispute Resolution and Notice of Hearing were served on the Tenant by registered mail, sent on May 16, 2013. These documents are deemed received five days later under the Act. The Agent testified that the documents were returned and marked "refused" by the Tenant. I note that refusal or neglect to accept registered mail is not a ground for review under the Act. I find the Tenant has been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Issue

During the hearing the Landlord's Agent was requesting compensation for cleaning at the unit based on a clause in the tenancy agreement. I explained that the clause in the tenancy agreement was likely not enforceable, as it attempts to be a pre-determined use of the security deposit, which is contrary to the Act.

Furthermore, the Landlord did not provide evidence to support such a claim, such as photographs of what required cleaning or any bills for cleaning.

Therefore, the request for compensation for cleaning is dismissed, although the Landlord has leave to reapply for this type of claim.

Issue(s) to be Decided

Is the Landlord entitled to monetary compensation for rent from the Tenant?

Background and Evidence

Based on the affirmed testimony of the Agent and the evidence provided by the Landlord, I find that the parties entered into a month to month tenancy agreement, which began on April 1, 2013, using the standard statutory form, with an addendum attached. The monthly rent was \$1,600.00, and the Tenant paid a security deposit of \$800.00 on or about April 1, 2013.

The Agent testified that on April 30, 2013, the Tenant called her and informed her he was vacating the rental unit on the following day. The Agent testified that she did not receive any written notice from the Tenant he was vacating the rental unit.

Analysis

Based on the above, the undisputed testimony and evidence, and on a balance of probabilities, I find that the Tenant has breached section 45 of the Act and section 14 of the tenancy agreement, by failing to give the Landlord the required one month notice to end tenancy in writing.

By failing to do this, I find the Tenant has caused the Landlord to suffer a loss of rent for the month of May 2013.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the Landlord has established a total monetary claim of **\$1,650.00** comprised of unpaid rent for one month and the \$50.00 fee paid for this application.

I order that the Landlord retain the deposit and interest of **\$800.00** in partial satisfaction of the claim and I grant an order under section 67 for the balance due of **\$850.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Tenant failed to provide the Landlord with one month of notice, in writing, to end the tenancy. The Landlord has suffered a loss of rent for one month due to the breaches of the Tenant and is entitled to recover the filing fee for the Application.

The Landlord may keep the security deposit in partial satisfaction of the claim and is granted an order for the balance due. This order may be enforced in the Provincial Court.

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: August 20, 2013

Residential Tenancy Branch

