



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR, MND, MNSD & MNDC

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the tenant by mailing, by registered mail to the forwarding address provided by the Tenant. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to a monetary order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on March 1, 2004, continue for a one year fixed term and become month to month after that. The tenancy agreement provided that the tenant(s) would pay rent of

\$1000 per month payable on the first day of each month. The tenant paid a security deposit of \$500 on February 29, 2004.

The rent was subsequently increased to \$1110 per month payable in advance.. Further, the tenant was given a Notice of Rent Increase that increased the rent to \$1150 effective July 1, 2013. The tenant testified she told the manager that she had not intention of paying the rent increase as the landlord failed to make necessary repairs to the rental unit.

The tenancy ended in early December.

Analysis

The Residential Tenancy Act provides the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant and is liable to compensate the landlord for failure to do so. In some instances the landlord's standards may be higher than what is required by the Act. The tenant is required to maintain the standards set out in the Act. The tenant is not required to make repairs for reasonable wear and tear. The applicant has the burden of proof to establish the claim on the evidence presented at the hearing.

Monetary Order and Cost of Filing fee

With respect to each of the landlord's claims I find as follows:

- a. The landlord claimed for loss of rent for the month of December 2013 alleging the tenant failed to provide proper notice. After hearing the disputed evidence of the parties I determined that on October 1, 2013 the tenant gave the landlord's agent notice she was vacating the rental unit at

the end of October and that her husband was vacating on December. The Manager is no longer employed by the landlord. However, I am satisfied the Manager was a proper person to give notice to and as a result I dismissed the landlord's claim for loss of rent for December for failure to give proper notice. However I determined the tenants failed to fully remove their belongings by the end of November as required by the Residential Tenancy Act and I determined the landlord is entitled to 2 days rent in December in the sum of \$74 for over-holding.

- b. I determined the landlord is entitled to \$250 for the failure of the tenant to remove their garbage. The tenant submitted she could not take these belongings to her new accommodation because they were infected with bugs. The tenant had lived in the rental unit for over 9 years. She is responsible for the removal of her belongings. I determined the disposal of this furniture by leaving it close to the garbage bin is not sufficient.
- c. I dismissed the landlords' claim of \$300 for the cost of cleaning. The landlord failed to provide sufficient proof to establish this claim.
- d. I dismissed the landlord's claim of \$280 for the cost of replacing the countertop. The landlord failed to prove the tenant caused the alleged damage.
- e. I dismissed the landlord's claim for the cost of varnishing and repairing the floor. I accept the evidence of the tenant that the manager gave her permission to remove the carpet. Further the manager failed to complete the repairs to the floor.
- f. I determined the landlord is entitled to \$200 for the failure of the tenant to pay the rent increase at \$40 for per month for the period July, August, September, October and November. The landlord was legally entitled to give the tenant the Notice of Rent Increase. I do not accept the submission of the landlord that the conduct of the manager amounted to agreeing with the tenant that she did not have to pay the rent increase.

In summary I determined the landlord has established a monetary claim against the tenant(s) in the sum of \$524 plus the \$50 filing fee for a total of \$574.

Security Deposit

I determined the security deposit plus interest totals the sum of \$517.69. I determined the landlord is entitled to retain this sum. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$56.31.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

The tenant alleged that she has multiple claims against the landlord. The tenant must first file an Application for Dispute Resolution before those claims can be adjudicated.

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 11, 2014

Residential Tenancy Branch

