



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MND MNR MNSD FF

Introduction

This hearing dealt with applications by the tenants and the landlord. The tenants applied for double recovery of the security deposit. The landlord applied for monetary compensation and an order to retain the security deposit in partial compensation of the monetary claim. Two landlords and one tenant participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's application and evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Are the tenants entitled to double recovery of the security deposit?

Background and Evidence

The tenancy began on July 1, 2013 as a fixed term tenancy that was to end on June 30, 2014. At the outset of the tenancy the tenants paid the landlord a security deposit of \$1000 and a pet deposit of \$250. On June 29, 2014 the landlord and the tenants carried out a move-in inspection and completed the condition inspection report. The tenants vacated the rental unit on February 27, 2014. The landlord and the tenants carried out a move-out inspection with the landlord on this date, but the tenants did not agree that the move-out report accurately reflected the condition of the unit at that time. The landlord filed to keep the deposits on March 7, 2014.

Landlord's Evidence

The landlord stated that the tenants sent the landlord a text message around January 10, 2014, indicating that they intended to vacate the rental unit early. The landlord asked the tenant for written notice, but the tenants did not do so. In early February 2014 the female tenant asked to

stay until the end of April, but then she said the end of February. The landlord did not advertise the unit to re-rent until they were confident that the tenancy would end. The landlord submitted copies of rental ads posted on February 1 and 2, 2014. The tenant's cheque for March 2014 rent was cancelled. The landlord was unable to re-rent the unit until April 23, 2014. The landlord stated that after doing the move-out inspection they found some cleaning and repairs that needed to be done.

The landlord has claimed compensation totaling \$8433.63, including \$3533 in unpaid rent and lost revenue from March 1, 2014 to April 23, 2014. The landlord did not provide a monetary order worksheet or other specific breakdown of the remainder of their claim.

Tenant's Evidence

The tenant stated that they gave their notice to vacate in January, and the landlord accepted it. The tenant stated that the landlord therefore had two months to re-rent the unit, but they had no showings. The tenant stated that at the move-out inspection the landlord expressed what a good job the tenants had done and the only issue was some crumbs in the cupboard. The tenant stated that the landlord said he would take the items in the yard. The tenant stated that he had emailed the landlord with repair requests, but he ended up doing the repairs himself. The tenant stated that any repairs the landlord has now claimed needed to be done were either pre-existing or fabricated.

Analysis

Landlord's Claim

I accept the landlord's evidence that they did not receive clear notice to vacate from the tenants, and they therefore could not advertise the unit to re-rent earlier than they did. I accept the landlord's evidence that they did advertise to re-rent but were unable to do so until April 23, 2014. I therefore find that the landlord is entitled to the amount claimed for lost revenue from March 1 to April 23, 2014.

I find that the landlord is not entitled to the remainder of their claim. The landlord did not provide a specific breakdown of the amounts being claimed. Additionally, the landlord indicated on the move-out inspection report that the unit was in good condition, and they have failed to provide sufficient evidence to demonstrate that the condition of the unit was other than what they agreed to in the report.

Tenant's Claim

Section 38 of the Residential Tenancy Act requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails

to do so, then the tenant is entitled to recovery of double the base amount of the security deposit.

In this case, the tenancy ended on February 27, 2014, and the landlord applied to keep the deposits on March 7, 2014. Therefore, the landlord has complied with the Act and the deposits do not double.

Filing Fees

As the landlord's application was partially successful, I find they are entitled to partial recovery of their filing fee, in the amount of \$25.

As the tenants' application was not successful, they are not entitled to recovery of their filing fee.

Conclusion

The landlord is entitled to \$3583. I order the landlord to retain the pet and security deposits of \$1250 in partial compensation of this amount, and I grant the landlord an order under section 67 for the balance due of \$2333. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: June 23, 2014

Residential Tenancy Branch

