



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, OPC, MND, MNR, MNDC, FF

Introduction

This Dispute Resolution hearing was set to deal with an Application by the landlord for a monetary order for rent owed, cost of disposal, cleaning and repairs to replace a broken window.

The landlord was present. Despite each co-tenant being served by registered mail sent on August 18, 2014, as confirmed by Canada Post tracking numbers, neither tenant appeared.

Preliminary Matter

Although the landlord's application indicated that the landlord was requesting an Order of Possession, at the outset of the hearing, the landlord stated that they are no longer seeking the Order of Possession as the tenant had already vacated the unit in the first week of September 2014. Therefore the issue of an order to end the tenancy is now moot. However, the landlord still seeks a monetary order and the hearing proceeded on that matter.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation under section 67 of the *Act* for rent owed and damages?

Background

The landlord testified that the tenancy began in March 2013 and rent was \$550.00. No security deposit was paid. The tenancy ended in September 2014. A copy of the tenancy agreement, invoices and proof of service were submitted into evidence.

The landlord testified that at the time the tenant left, rental arrears of \$550.00 owed for the month of August 2014 and \$550.00 for the month of September 2014 and this is being claimed. The landlord testified that the unit was not re-rented until mid October

2014 and the landlord claims a further \$275.00 for loss of revenue for one half a month in October, 2014.

The landlord testified that the tenant did not leave the rental unit reasonably clean as required under the Act, leaving garbage on the site and the yard littered with debris. The landlord testified that the garbage was removed by the landlord incurring the following costs:

- \$53.75 ferry fare to return recyclables on August 22, 2014,
- \$53.75 ferry fare to remove garbage on August 25, 2014,
- \$47.91 dumping fees on August 25, 2014,
- \$36.00 ferry fare to remove garbage on August 26, 2014,
- \$60.54 dumping fees on August 26.

Copies of the invoices to support these claims are in evidence. The evidence indicates that the landlord received \$75.40 for the return of all of the discarded bottles and cans.

In addition to the above, the landlord is claiming compensation for the \$225.00 cost for cleaning, the \$243.60 cost of repairing a broken window, and reimbursement for bank charges for several rent cheques that were returned during the tenancy. These claims are also supported by receipts.

Analysis:

Section 26 of the Act states that rent must be paid when it is due, under the tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement. I find that the tenant did not pay all of the rent for August and September 2014 and the landlord is entitled to \$1,100.00 for unpaid rental arrears.

Test For Damage and Loss Claims

1. Proof that the damage or loss exists,
2. Proof that this damage or loss happened solely because of the actions or neglect of the Respondent in violation of the Act or agreement,
3. Verification of the actual amount required to compensate for the claimed loss or to rectify the damage, and
4. Proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage.

In this instance, the burden of proof was on the landlord, to prove the existence of the damage/loss and that it stemmed directly from a violation of the agreement or a contravention of the Act on the part of the respondent.

In regard to the cleaning and repairs, I find that under section 37(2) of the Act, when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

With respect to compensation requested for damages and losses, I find that the landlord's undisputed claims for \$1,100.00 rent, \$53.75 ferry fare to return recyclables on August 22, 2014, \$53.75 ferry fare to remove garbage on August 25, 2014, \$47.91 dumping fees on August 25, 2014, \$36.00 ferry fare to remove garbage on August 26, 2014, \$60.54 dumping fees on August 26, 2014, \$225.00 cost for cleaning, \$243.60 cost of repairing a broken window, and \$21.00 for reimbursement of bank charges have successfully met each of the four elements of the test for damages.

I find that the landlord is entitled to total compensation of \$1,841.55 plus the \$50.00 cost of the application for a total of 1,891.55. After deducting the \$75.40 bottle and can recycle refund that the landlord received, I find that that the total monetary compensation is \$1,766.15.

I find that the landlord's claim for the rental loss for the month of October 2014 does not adequately satisfy element 4 of the test for damages and must therefore be dismissed.

I hereby grant the landlord a Monetary Order in the amount of \$1,766.15. This order must be served on the tenant in accordance with the Act and if necessary can be enforced through Small Claims Court.

Conclusion

The landlord is partly successful in the application and is granted a monetary order for rent, cleaning, repairs and disposal.

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: October 14, 2014

Residential Tenancy Branch

