



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNSD, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for a monetary order for unpaid rent or utilities; for a monetary order for damage to the unit, site or property; for an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing and gave affirmed testimony, however, despite being served with the Landlord's Application for Dispute resolution and notice of this hearing by registered mail on March 21, 2015, no one for the tenant attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the landlord. The landlord testified that the documents were sent on that date and in that manner and that the mail was returned to the landlord with a sticker on the envelope showing that the mail was refused by the recipient tenant. The landlord was given the opportunity to provide copies of the Canada Post Receipt and envelope with the sticker after the hearing had been concluded. Copies have been provided, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenant for unpaid rent?
- Has the landlord established a monetary claim as against the tenant for damage to the unit, site or property?
- Should the landlord be permitted to keep the security deposit in partial satisfaction of the claim?

Background and Evidence

The landlord testified that the rental unit was occupied by the tenant when the landlord purchased the building. Rent in the amount of \$520.00 per month was payable on the 1st day of each month. The landlord received a security deposit when the rental unit was purchased in the amount of \$260.00 which is still held in trust by the landlord.

The tenant was repeatedly late with rent, so the landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, but decided that may have been the incorrect form to serve, so on January 10, 2015 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause, citing repeated late rent as the reason for issuing it. The landlord tried to contact the tenant unsuccessfully, and the tenant moved out of the rental unit without notifying the landlord. The landlord attended the rental unit sometime during the 2nd or 3rd week of February, 2015, and the tenant was gone, and no rent for February, 2015 was paid.

The rental unit was left unclean, a dead rabbit was found, and the tenant had a cat which was not permitted. The landlord had to hire someone to move 3 sofas out of the rental unit at a cost of \$150.00 and the landlord spent 8 hours cleaning the rental unit after the tenant had departed. No receipts have been provided.

The rental unit was re-rented for March 1, 2015 and the landlord also gave new tenants free rent for a week prior to March 1, 2015, and extra money to complete the cleaning.

The landlord claims \$520.00 for unpaid rent for February, 2015 as well as \$260.00 for damages.

Analysis

The landlord testified that the tenant was served with a 1 Month Notice to End Tenancy for Cause on January 10, 2015 which contained an effective date of vacancy of January 30, 2015. That is not a month's notice; the Act states that the notice must be given before the date rent is payable and must be effective the day before the date rent is payable the following month. The Act also states that incorrect effective dates contained in such a notice are changed to the nearest date that complies with the Act. In this case, because the notice was issued on January 10, 2015 and rent was payable on the 1st day of each month, the notice would not be effective until February 28, 2015. The tenant moved out prior to that without notifying the landlord. Despite the landlord's notice, any notice given by the tenant after January 10, 2015 would not be effective until February 28, 2015. Therefore, in the circumstances, I am satisfied that the landlord is owed \$520.00 for February's rent.

There is no evidence of the condition of the rental unit at the end of the tenancy or the costs incurred by the landlord for cleaning or removing unwanted items from the rental unit. Therefore, I dismiss the landlord's application for a monetary order for damage to the unit, site or property.

I order the landlord to keep the \$260.00 security deposit in partial satisfaction of the unpaid rent, and I grant the landlord a monetary order for the difference, in the amount of \$260.00.

Since the landlord has been partially successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, the landlord's application for a monetary order for damage to the unit, site or property is hereby dismissed without leave to reapply.

I hereby order the landlord to keep the \$260.00 security deposit in partial satisfaction of the landlord's claim for unpaid rent, and I grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* for the difference and recovery of the filing fee, for a total monetary award of \$310.00.

This order is final and binding and may be enforced.

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 25, 2015

Residential Tenancy Branch

