



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Code MNR, MND, MNSD, FF

Introduction

This hearing was convened in response to applications by the tenants and the landlords.

The tenants' application is seeking orders as follows:

1. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent;
2. To have the landlord make emergency repairs
3. For a monetary order for money owed or compensation for loss ;
4. To have the landlord comply with the Act;
5. To allow a tenant to reduce rent for services or facilities agreed upon put not provided;
and
6. To recover the cost of filing the application.

The landlords' application is seeking orders as follows:

1. For an order of possession for unpaid rent;
2. For a monetary order for unpaid rent;
3. To keep all or part of the security deposit; and
4. To recover the cost of filing the application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Preliminary matters

At the outset of the hearing the parties agreed that the tenants vacated the rental unit on July 1, 2015. Therefore, I find the landlord no longer requires an order of possession.

Since the tenants are no longer residing in the rental unit, I find the tenants' application for the following orders no longer apply due to the tenancy ending, to cancel a 10 Day Notice to End Tenancy for Unpaid Rent, to have the landlord make emergency repairs, to have the landlord comply with the Act and to allow a tenant to reduce rent for services or facilities agreed upon put not provided. Therefore, I dismiss this portion of the tenants' claim without leave to reapply.

The remaining issue in the tenants' application is for a monetary order for money owed or compensation for loss; however, no details of this claim were provided in their application and no monetary worksheet was completed.

Section 59 (2) of the Act states an application for dispute resolution must include full particulars of the dispute that is to be the subject of the dispute resolution proceedings as the principles of natural justice require that a person be informed and given particulars of the claim against them. Therefore, I dismiss this portion of their claim with leave to reapply.

Issue to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The parties agreed that the tenancy began on February 21, 2015. Rent in the amount of \$2,300.00 was payable on the first of each month. The tenants paid a security deposit of \$1,150.00. The tenancy ended on July 1, 2015.

The landlord NK testified that tenants did not pay rent for June 2015. The landlord seeks to recover unpaid rent for June 2015, in the amount of \$2,300.00.

The tenant SL testified that they did not pay rent for June 2015, because they were having problems with the rental unit. The tenant SL confirmed that they did not have the authority under the Act, such as an order from an Arbitrator to withhold rent.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlords have the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Rules about payment and non-payment of rent are defined in Part 2 of the Act.

Rules about payment and non-payment of rent

26 (1) *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

...

The evidence of the both parties was that the tenants did not pay rent owed for June 2015. I find the tenants have breached section 26 of the Act when they failed to pay rent when due under the tenancy agreement and this has caused losses to the landlords.

I find that the landlords have established a total monetary claim of **\$2,350.00** comprised of unpaid rent for June 2015 and the \$50.00 fee paid for this application.

I order that the landlords retain the security deposit of **\$1,150.00** in partial satisfaction of the claim and I grant the landlords an order under section 67 of the Act for the balance due of **\$1,200.00**.

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

Conclusion

The tenants' application for a monetary order is dismissed with leave to reapply. The balance of the tenants' application is dismissed without leave.

The landlords are granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlords are granted a formal order for the balance due.

The landlords are at liberty to apply for loss of revenue as that matter was not considered at today's hearing.

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: July 31, 2015

Residential Tenancy Branch

