



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 dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the "Act"), for an order of possession, for a monetary order for unpaid rent, for damages to the unit and for an order to retain the security deposit in partial satisfaction of the claim.

The landlord attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were served to the tenants in person on November 10, 2015.

I find that the tenants have been duly served in accordance with the Act.

The landlord appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to 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 landlord requested to amended their application to include loss of rent for the full month of November 2015. As rent is the most basic term of a tenancy agreement, I find, pursuant to section 62(3) that the landlord's application is amended to include a claim for unpaid rent for November 2015.

Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent?
Is the landlord entitled to monetary compensation for damages?
Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on January 2015. Rent in the amount of \$1,000.00 was payable on the first of each month. The landlord stated that the tenants did not pay a security deposit. The tenancy ended at the end of November 2015.

The landlord testified that the parties had agreed to end the tenancy on November 10, 2015. The landlord stated that the tenants did not move-out of the rental unit until the end of November 2015. The landlord stated that the tenants did not pay any rent for November 2015. The landlord seeks to recover unpaid rent in the amount of \$1,000.00.

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 landlord has 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-comply 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 landlord's was the tenants did not pay any rent owed for November 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 landlord. Therefore, I find the landlord is entitled to recover unpaid rent in the amount of \$1,000.00.

I find that the landlord has established a total monetary claim of **\$1,050.00** comprised of the above described amount and the \$50.00 fee paid for this application. I grant the landlord an order under section 67 of the Act.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

Conclusion

The landlord is granted a monetary order.

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: January 12, 2016

Residential Tenancy Branch

