



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants for a monetary order and to recover the filing fee from the landlords.

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.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

Preliminary matter

The landlord questioned whether the tenants have served the right party, as they believe the company that was acting as their agent should have been listed as the respondent. The landlord acknowledged they were the owners of the property.

In this case, the tenants made a claim against the landlord's, not the landlord's agent. I find the tenants did file against and serve the right party, as the landlord's agent is simply taking instruction from the landlord.

Further, any issues that may between the landlord and their agent, is the landlords responsibility to resolve.

Issue to be Decided

Are the tenants entitled to a monetary order for money owed?

Background and Evidence

The tenancy began on May 1, 2017. Rent in the amount of \$1,850.00 was payable on the first of each month. A security deposit of \$925.00 was paid by the tenants.

The parties agreed that the tenants were severed with a Two Month Notice to End Tenancy for Landlord's Use of Property. The tenants vacated on April 30, 2018, based on the notice.

The tenants testified that they did not receive from the landlords' compensation equal to one month's rent. The tenants stated that they were unable to withhold the last month of rent as the money was directly debit from their account. The tenants stated they did receive a part payment of \$200.00. The tenants to seek to recover the balance due in the amount of \$1,650.00.

The landlord testified that they only gave the tenants the amount of \$200.00 because they were threatening they would not leave. The landlord acknowledged they did not give the tenants compensation.

Analysis

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

Under section 51 of the Act, a tenant who receives a notice to end a tenancy for landlord's use of property is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable, the tenant may withhold the last month's rent.

In this case, the tenants did not withhold the last month's rent. The landlord's did not give to the tenants the amount equivalent to one month's rent on or before the effective date of the notice to end tenancy. I find the landlords have breached the Act.

I find the tenants are entitled to the amount of \$1,850.00, which is the equivalent of one month's rent. The landlord made a part payment of \$200.00.

Therefore, I find the tenants are entitled to compensation for money owed in the amount of **\$1,650.00.**

I find that the tenants have established a total monetary claim of **\$1,750.00** comprised of the above described amount and the \$100.00 fee paid for this application.

At the conclusion of the hearing the parties agreed the landlords will pay the above amount to the tenants by etransfer.

The landlords will pay \$550.00, today November 6, 2018, and the remainder will be paid at the rate of \$400.00 per month commencing of December 1, 2018 and the like sum payable on the 1st day of each month thereafter until paid in full.

Any missed payment the full amount becomes immediately due and owing. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **landlords are cautioned** that costs of such enforcement are recoverable from the landlords.

Conclusion

The tenants are 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: November 07, 2018

Residential Tenancy Branch