

DECISION

Dispute Codes: MNSD, MNDC, FF

Introduction

This hearing dealt with a cross applications by the parties. The landlord applied for a monetary order for damages and an order to retain the security deposit in partial satisfaction of the claim. The tenant applied for return of her security deposit.

Issues to be Decided

Whether the landlord is entitled to a monetary order for damages and an order to retain the security deposit in partial satisfaction of the claim?

Whether the tenant is entitled to the return of her security deposit?

Background and Evidence

On May 19, 2008, the landlord collected a security deposit from the tenant in the amount of \$875.00. On the same day, the landlord and the tenant entered into a fixed term tenancy agreement for the period from June 1, 2008 to May 31, 2009. The tenancy began on June 1. A monthly rent of \$1750.00 was payable in advance on the first day of each month. On August 23, the tenant gave notice to the landlord that she will be moving out on November 30. On November 30, the tenant moved out. A move out condition inspection was done on the same day and the resulting report was signed by both the landlord and the tenant.

Issue #1 – Whether the landlord is entitled to a monetary order for damages and an order to retain the security deposit in partial satisfaction of the claim?

The landlord is seeking recovery of costs incurred in addressing these damages.

Cleaning

The tenant did not dispute that the rental unit needed further cleaning when she moved out. In fact, the tenant signed a move out condition inspection report with the notation: “Cleaning fee to be withheld from damage deposit. Amount of fee unknown at this point.” The tenant disputed the cleaning costs of \$180.00 as being too high.

The landlord submitted a receipt from a cleaning person dated December 10, 2008 for the amount of \$180.00. The landlord also submitted a quote from Molly Maid dated December 3, which she had obtained prior to deciding on the cleaning person. The landlord explained that she chose the cleaning person over Molly Maid because Molly Maid’s quote was higher. I note that both the cleaning person and Molly Maid indicated in their receipt and quote that 4 to 5 hours were needed to complete the cleaning of the rental unit.

Based on the above, I find that the landlord has proven the costs of \$180.00 for cleaning. I therefore allow a claim of \$180.00 for cleaning.

Loss of Income

The landlord said that the tenant moved out on November 30 before her fixed term tenancy ended. After the tenant moved out, the landlord tried to re-rent the unit by putting up several ads. However, only one prospective renter responded, so the landlord had no choice but to rent to this person starting December 15.

The landlord is claiming for loss of income for the period from December 1 to 15 in the amount of \$847.00.

The tenant said that while she did enter into a fixed term tenancy ending May 31, 2009, the same tenancy agreement also states that, "The parties agree that a) each party may terminate this agreement on three months notice". Since she did give 3 months notice to the landlord to terminate her tenancy, she should not be liable for any loss as a result of her ending the tenancy before May 31, 2009.

Based on the above, I find that the tenancy agreement dated May 19, 2008 states that each party may terminate the agreement on three months notice. The tenant did give 3 months notice to terminate the tenancy by giving notice on August 23 to vacate on November 30. The tenant has ended tenancy in accordance to a specified term in the tenancy agreement and therefore has no further obligation for any monetary loss that may occur after the tenancy ended.

I dismiss the landlord's claim for loss of income in the amount of \$847.00.

Issue #2 – Whether the tenant is entitled to the return of her security deposit?

As stated above, the landlord has established a claim for \$180.00 for cleaning. I order the landlord to retain this amount from the security deposit and interest of \$883.14. I grant the tenant an order under section 67 for the balance of \$703.14. This order may be filed in the Small Claims Court and enforced as an order of that Court.

I decline to award either party the cost of the filing fee as both parties have established an amount of claim.

Dated February 04, 2009.