

DECISION

Dispute Codes MND, MNDC, MNR

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, seeking orders for monetary compensation for damages and cleaning of the rental unit, for unpaid rent and for money owed under the Act or tenancy agreement.

The Tenants were served with the Notice of Hearing and Application for Dispute Resolution by registered mail, sent on April 20, 2009. Under the Act, they are deemed served five days after mailing. Despite this, the Tenants did not appear at the hearing and it proceeded with the Landlord and his witness providing affirmed testimony.

Issues(s) to be Decided

Is the Landlord entitled to the monetary relief sought?

Background and Evidence

The Landlord has applied for damages and cleaning of the unit in the following amounts:

a.	New flooring	4,400.00
c.	Fixing holes in walls	1,500.00
d.	Fixing toilet	300.00
e.	Rubbish removal	1,800.00
f.	Loss of rent for 3 months	3,600.00
g.	Keeping a pet	4,500.00
h.	Tools provided by Landlord and not returned	200.00
i.	Paint wasted by Tenants	250.00
j.	Repair deck removed by Tenants and not replaced	4,000.00
k.	Cost to clean home	200.00
l.	Changing locks	100.00
m.	Damage to refrigerator	500.00
n.	Damage to entrance door	200.00
o.	Damage to garage door	200.00
p.	Labor costs	12,000.00
q.	Time off work	7,500.00
r.	Registered mail	10.00
	Total claimed (amounts over \$25,000.00 are not recoverable under the Act)	25,000.00

In evidence the Landlord provided many receipts and invoices, some photographs and a written tenancy agreement.

The Landlord did not conduct incoming or outgoing condition inspection reports. He relied on a witness who claims the unit was in good condition when the Tenants moved in. The witness was the Landlord's father.

Analysis

The Landlord in this matter had the obligation of proving the claims that have been made against the Tenants. The standard of proof required is the civil and administrative law standard, which is, claims must be proven on a balance of probabilities.

I find that much of the Landlord's claim is either not supported on a balance of probabilities, or is grossly exaggerated in an attempt to have the Tenants pay for the cost of renovations to the rental unit, which are in fact the Landlord's responsibility.

I find there is also insufficient evidence to support much of the Landlord's claims. For example, there is insufficient, or no evidence, to support labor costs of \$12,000.00, or \$7,500.00 for time off work.

I accept that the carpets in the rental unit were stained and uncleaned when the Tenants moved out; however, it is unclear what the condition of the carpets were prior to these Tenants moving in. Furthermore, the Landlord replaced the carpets with hardwood floors and is now attempting to have the Tenants pay the entire amount for those renovations. The Landlord testified that the carpets in the rental unit were 12 years old. He did not account for depreciation, as the useful life of the carpets in this rental unit were nearly at an end, regardless of how the Tenants left them.

He makes a claim of \$1,800.00 for removal of rubbish at the unit that he says was left by the Tenants. In relation to this and other portions of these claims, I find it is important to note that the Landlord had a previous hearing in 2006 with different renters for this same rental unit. (The Tenants in this matter appear to have been the next occupants, following the previous renters of that hearing.) In the 2006 Decision it was noted that there had been a small "grow operation" in the basement of the rental unit, and that the unit had been abused by earlier occupants, and that various items had been left in the basement and garage by prior occupants or this Landlord. It is unclear from the current claim of the Landlord if all of the rubbish being removed were from these Tenants or from previous occupants, or the Landlord himself. It was also an agreed fact in that earlier hearing, that the rental unit, "... needed a number of repairs."

Furthermore, I find the absence of condition inspection reports, or the Landlord providing a preponderance of evidence to show the condition of the unit prior to these Tenants occupying it, detrimental to the Landlord's case. Likewise, by grossly exaggerating much of his claim, the Landlord's has weakened the credibility of his evidence to a large extent.

Therefore, based on all of the foregoing, the evidence and testimony, and on a balance of probabilities, I find I must dismiss the Application of the Landlord.

Conclusion

There was insufficient evidence to support large portions of the Landlord's claims. The Landlord has grossly exaggerated portions of the claims made.

The Landlord appears to be attempting to have the Tenants pay for renovations at the rental unit, for which they are not responsible.

The Application for Dispute Resolution of the Landlord is dismissed.

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: August 07, 2009.

Dispute Resolution Officer