

DECISION

Dispute Codes MNR, MNDC, FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, seeking monetary orders for unpaid rent, for damage to the unit, for money owed under the Act or tenancy agreement and for the return of the filing fee.

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 to me.

Issues(s) to be Decided

Is the Landlord entitled to the compensation sought?

Background and Evidence

The tenancy began in October of 2007, with a monthly rent of \$800.00. The tenancy agreement states the tenancy was to begin on October 1, 2007, however, the Tenant says she did not move into the unit until October 15, 2007. The Landlord claims the Tenant still owes her \$500.00 in rent for October of 2007, plus late fees of \$75.00, as set out in the tenancy agreement.

The Landlord gave the Tenant a two month Notice to End Tenancy, as the Landlord's daughter intended on moving into the rental unit. Following this, the Tenant gave a 10 day Notice to End Tenancy, pursuant to the Act. (I note the parties had been involved in an earlier hearing, where the Landlord was ordered to pay the Tenant the one month compensation due for the two month Notice to End Tenancy, and for return of double the security deposit.)

The Landlord did not perform incoming or outgoing condition inspection reports.

The Landlord claims that when the Tenant moved in the rental unit had been completely renovated. She claims that the Tenant damaged the hardwood floors in the unit and claims \$321.66 for the repair of this floor.

The Landlord claims the Tenant did not clean the carpets when she moved out, and claims \$49.26 for this.

The Landlord also claims the Tenant did not move out until suppertime on the day the tenancy was to end, and she claims one day of rent \$26.67 for this.

The Landlord also claims \$80.00 for cleaning the rental unit after the Tenant vacated.

The Tenant denied that she owed the Landlord rent for October of 2007. She testified and provided evidence that she did not move in until October 15, 2007. She claims to have paid the Landlord \$300.00 in cash, with another \$400.00 paid by social assistance.

The Tenant denied damaging the hardwood floor. She testified she did not clean the carpets when she moved out, because the carpets were not cleaned when she moved in. She further testified that she may have left one portion of the unit unclean when she vacated.

The Tenant also denies she moved out late on the last day of the tenancy.

Analysis

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

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

I deny the Landlord's claim for unpaid rent and consequently, for the late fee as well. I do not find the Tenant owed the Landlord any rent for the starting month of the tenancy. I find the Landlord accepted the payments made to her in full compensation for October 2007 rent. I further find it is contradictory that this Landlord would have ended the tenancy with the two month Notice to End Tenancy, if the Tenant still owed her rent for October of 2007, as she could have simply issued a ten day Notice to End Tenancy for unpaid rent. I also explained to the Landlord during the hearing that the Act and regulation only allow a late fee of \$25.00, which cannot be contracted out of.

I deny the Landlord's claim for damage to the hardwood floor. The Landlord performed no condition inspection reports, did not have photographs of the alleged damage, and provided no other substantive evidence that the floor was fine when the Tenant moved in and damaged when she moved out. Therefore, I find the Landlord had insufficient evidence to support this claim.

I deny the Landlord's claim for one day of rent. I find the Landlord had insufficient evidence to support when the Tenant vacated the rental unit.

I do allow the Landlord **\$49.26** for carpet cleaning, and **\$80.00** for cleaning the unit, as the Tenant should have had these cleaned upon vacating.

As the Landlord has been only partially successful in proving her claim, I allow her only **\$20.00** for the return of the filing fee.

I find that the Landlord has established a total monetary claim of **\$149.26** comprised of the above described amounts and the \$20.00 towards the fee paid by the Landlord for this application.

I grant the Landlord an order under section 67 for the balance due. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

Much of the Landlord's claim was dismissed due to insufficient evidence.

I do allow the Landlord part of the claim for cleaning and part of the filing fee.

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 18, 2009.

Dispute Resolution Officer