



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNDC MNSD MND FF O

Introduction

This hearing dealt with applications by the tenant and the landlord. The tenant applied for double recovery of the security deposit. The landlord applied for monetary compensation for damage to the rental unit. The tenant, one witness for the tenant, the landlord and two witnesses for the landlord all participated in the teleconference hearing.

Issue(s) to be Decided

Is the tenant entitled to double recovery of the security deposit?

Did the tenant damage the flooring of the rental unit?

Is the landlord entitled to monetary compensation for that damage?

Background and Evidence

The tenancy was to begin on May 1, 2009, with monthly rent of \$1000. On April 12, 2009 the tenant paid a security deposit of \$500. The tenant did not move in until May 2, 2009. On that date, the landlord and tenant carried out a joint move-in inspection and both signed the inspection report. The report indicated that there was one scratch or cut on the living room floor, and one scratch on the bedroom floor. The flooring throughout most of the rental unit was hardwood, which the landlord testified had been installed six years ago.

The tenancy ended on June 15, 2009. On that date, the tenant attended at the rental suite to carry out the move-out inspection with the landlord. When the tenant arrived, the landlord had laid tape on several sections of the floor to indicate where there was damage. The tenant disputed that she had caused any damage to the floors, and stated that it was all pre-existing before her tenancy began. The tenant refused to give the landlord written permission to keep her security deposit. At the bottom of the move-out inspection report, the tenant wrote her forwarding address. The testimony of the landlord and the landlord's witness was that the tenant had threatened that she was not going to provide her forwarding address. As a result the landlord did not notice that the tenant had written her forwarding address on the inspection report. The landlord stated that she would have filed an application to keep the security deposit on time if she was aware that the tenant had provided her written forwarding address.

On July 23, 2009 landlord had one company come into the rental unit and assess the damage to the floors. The company stated that some of the scratches were too deep to remove by sanding, and all of the flooring would have to be replaced. The company billed the landlord \$100.80 for the assessment, and estimated the flooring replacement cost at \$10,759.71. The landlord could not explain some portions of the estimate, such as why the underlay would need to be replaced. The landlord has claimed the costs of the assessment and the estimated costs for flooring replacement, for a total claim of \$11,360.51. The landlord provided photographs of the flooring after the tenant vacated. The photographs depict numerous scratches and scuffs on the flooring throughout the suite, and several of the scratches appear to be deeper than surface scratches.

Analysis

In regard to the tenant's claim for double return of the security deposit, I find as follows.

Section 38 of the Residential Tenancy Act requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double

the base amount of the security deposit.

In this case, the tenancy ended on June 15, 2009, and the tenant provided her forwarding address in writing on the move-out report on that date. However, I accept as credible the evidence of the landlord and the landlord's witness that the tenant threatened to withhold her forwarding address, and I accept the landlord's testimony that she would have made an application to keep the security deposit if she was aware that the tenant had provided her written forwarding address. I find that the tenant misled the landlord, and did not properly inform the landlord that she was providing her forwarding address. The tenant did not therefore comply with the requirements under section 38 of the Act. I therefore find that the tenant is not entitled to double recovery of the security deposit.

In regard to the landlord's claim for compensation for damage to the flooring, I find as follows.

The tenant signed the move-in inspection report, which indicated only two scratches on the flooring. If there were more pre-existing scratches, the tenant ought to have made note of those scratches at that time. The landlord's photographs of the flooring clearly depict numerous scratches and scuffs. I therefore accept the landlord's evidence that there was damage to the flooring that was caused by the tenant.

A claimant has the burden of proof to establish that they are entitled to the monetary amount claimed. In this case, the landlord only received one quote, and did not provide any supporting evidence to establish that the repairs could not have been done at a lower price or that in fact a complete replacement of the flooring was necessary.

Further, I must take into account the depreciated value of the flooring. According the Residential Tenancy policy guidelines, the average life of hardwood flooring is 20 years, and this flooring is six years old, which would result in a 30 percent depreciation in any monetary amount to which the landlord is entitled.

In the absence of supporting evidence, I find the landlord is not entitled to the full amount claimed. I find it is reasonable that the landlord be compensated \$500 for damage to the flooring. The landlord is not entitled to recovery of the cost for the assessment, as the landlord chose to incur that cost rather than mitigate by attempting to receive free quotes.

Conclusion

The tenant's application is dismissed.

The landlord may retain the \$500 security deposit in full compensation of her claim.

As the tenant's application was not successful and the landlord's claim was only minimally successful, I decline to award either party recovery of their respective filing fees.

Dated October 26, 2009.