



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a Monetary Order for damage to the unit, site or property and a Monetary Order to recover the filing fee.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and were sent to the tenant by registered mail on July 07, 2009.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

- What is the extent of the damage to the unit, site or property?
- Has the landlord provided sufficient evidence that the damage is caused by actions or neglect of the tenant or person working on behalf of the tenant?
- Is the landlord entitled to recover the filing fee?

Background and Evidence

This tenancy started on July 01, 2008, although the tenants did not move in until August 01, 2008, and ended on June 30, 2009. This was a fixed term tenancy for one year and rent for this suite was \$1,600.00 per month due on the 1st of each month. The tenants paid a security deposit of \$800.00 which has been returned to them around the 1st week of August, 2009.

The landlords claim concerned two separate issues. The first issue was concerning some stains on the carpet. This issue has now been resolved. The second issue concerns a bill from the Strata council to the landlords for a broken glass canopy at the entrance to the building. The Strata council claim that this was damaged by the tenants moving truck when they moved into the property in August, 2008. The landlords state that the strata council claim that they had video evidence of this damage being caused but this evidence has since been erased. The landlords were not present at the time the damage allegedly occurred and have no first hand knowledge of this damage being caused by the tenants moving truck. The landlords state that the Strata council did not invoice the landlords for this damage until June 26, 2009.

The tenants claim their moving truck did not cause any damage to the canopy. They have provided photograph evidence showing their moving trailer in position. This trailer is not in contact with the canopy and the pictures show the canopy is intact.

The landlords state that the moving company did not come to collect the trailer at the end of the move and a member of the Strata council organised a tow truck to remove the trailer from its location at the front of the building. Some time later the moving company came to collect the trailer in its new location.



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Housing and Social Development

Analysis

I have carefully considered all the evidence before me, including the evidence of both parties during the course of the hearing. In this matter, the Landlord has the burden of proof and must show (on a balance of probabilities) sufficient evidence that this damage happened solely because of the actions or neglect of the tenant or a person working for the tenant in violation of the Act or agreement.

In the absence of any corroborating evidence, I find that the Landlord has not provided sufficient evidence to show that the damage was done to the canopy by the tenants or the tenants moving company. Therefore, the landlords' application is dismissed.

Conclusion

The landlords' application is dismissed without leave to reapply.

As the landlords' application has been dismissed she must bear the cost of filing her application.

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: October 22, 2009.

Dispute Resolution Officer