



Dispute Resolution Services

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

Decision

Dispute Codes: MND MNR MNSD FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The landlord, both tenants and an advocate for the tenants all participated in the conference call hearing.

Issue(s) to be Decided

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on February 1, 2005. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$350. There was no move-in inspection carried out at the outset of the tenancy. Rent was payable in advance on the first day of each month, and at the end of the tenancy the monthly rent was \$790. The tenants did not pay rent on July 1, 2009, and on July 8, 2009 the tenants gave the landlord verbal notice that they were vacating the rental unit as of July 15, 2009. The tenants vacated on July 16, 2009. The tenants and the landlord conducted a joint move-out inspection on that date, but the tenants did not agree with the damages noted by the landlord on the inspection report.

The landlord has claimed the following monetary amounts:

- 1) \$1580 for unpaid rent and lost revenue for July and August 2009 – as soon as the landlord received the tenants' verbal notice to vacate, she began advertising

to re-rent. The landlord was not able to re-rent until August 15, 2009.

- 2) \$3080 for painting and repairs – the landlord provided an estimate for painting the interior of the rental unit and carrying out various repairs to interior doors, bathroom flooring and kitchen cabinets.
- 3) \$452.35 to replace damaged doors – the front door of the unit, bifolds and a bedroom door were damaged and needed to be replaced.
- 4) \$5.59 for a smoke detector battery
- 5) \$5.80 for bifold hardware
- 6) \$126.00 for carpet cleaning
- 7) \$5.81 for light fixture
- 8) \$22.40 to replace a missing bedroom window screen
- 9) \$6.94 for cleaning supplies – part of the cleaning supplies were for cleaning the walls before painting
- 10) \$3.29 for lightbulbs

The response of the tenants was as follows. The tenants vacated the rental unit without proper notice because the landlord had not responded to the tenants' requests for repairs throughout the tenancy. The damage that the landlord has claimed was either pre-existing at the beginning of the tenancy or was normal wear and tear. The tenants pointed out the problem with the bathroom linoleum during the tenancy but the landlord did nothing about it. The tenants stated that they did not know anything about a missing window screen.

In regard to the exterior door, the tenants stated that the landlord's husband came to the rental unit on July 13, 2009 and kicked in the door. He then uttered threats to the tenants, and the police attended. The landlord's response to this was that her husband told her he did not kick in the door, it was already open, and he did not literally mean that he would kill the tenants, as English is not his first language. The landlord asked

the tenants about the damage to the door and the landlord got the impression that the door was damaged by someone the tenants knew.

The tenants acknowledged that they did not do carpet cleaning before vacating, and there may have been some light bulbs that needed to be replaced, but there were no light bulbs when they moved in. The tenants also acknowledged that they had to force open a bedroom door at the outset of the tenancy because the door automatically locked with the tenant's child inside the room and they did not have a key for the door.

Analysis

In considering all of the evidence, I find as follows. In regard to the unpaid rent and lost revenue, I find that the tenants chose to end the tenancy without proper notice rather than make an application for an order for repairs. I accept the landlord's testimony that she took steps to attempt to re-rent as soon as possible. The landlord re-rented on August 15, 2009 and therefore cannot claim lost revenue for the latter half of August. The landlord is entitled to unpaid rent and lost revenue from July 1, 2009 to August 14, 2009 in the amount of \$1185.

The landlord is entitled to the costs claimed for carpet cleaning (\$126) and light bulbs (\$3.29). The tenants ought to have brought missing light bulbs to the landlord's attention at the outset of the tenancy, and the tenants are responsible for any missing or burnt out light bulbs at the end of the tenancy.

In regard to the bedroom door, the tenants acknowledged that they damaged the bedroom door, but they had to force the door open because it automatically locked and they had not been given a key. I accept the testimony of the tenants on this point, and find that the landlord is therefore not entitled to the amount claimed for this door.

I find that the landlord is not entitled to the remainder of their costs, and I dismiss those portions of the claim. The landlord did not do a move-in inspection and therefore could not establish the condition of the rental unit at the outset of the tenancy, including walls, kitchen cabinets, closet and other doors, light fixtures or the number of window screens.

The landlord did not provide adequate evidence regarding the need for cleaning. The landlord only provided one quote for the bathroom floor and did not provide evidence that they attempted to have the work done at a reasonable cost. The landlord would have been responsible for replacing the smoke detector battery.

In regard to the damaged front door, I accept the testimony of the tenants as more credible than that of the landlord. The landlord's husband could have appeared as a witness or provided a written statement to attest that he did not damage the door, but the landlord only provided her testimony as indirect evidence on this point. Further, I find that the police report on this incident supports the tenants' claim that the landlord's husband was angry when he attended at the rental unit, and I find it more likely than not that in his anger he did kick in the door. I therefore also dismiss this portion of the landlord's claim.

The landlord is entitled to a monetary claim of \$1314.29. As the landlord's claim was partially successful, I find that she is entitled to partial recovery of the filing fee, in the amount of \$25, for a total of 1339.29.

Conclusion

I order that the landlord retain the deposit and interest of \$362.38 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$976.91. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated November 16, 2009.