



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND 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. An agent for the landlord, a witness for the landlord and the tenant participated in the conference call hearing.

In the hearing, the tenant stated that he did not receive the landlord's additional evidence, which comprised 12 photographs. The landlord stated that the additional evidence was sent to the tenant by regular mail. As the landlord could not prove deemed service of this evidence, I did not admit or consider it in reaching my decision in this matter.

Issues(s) to be Decided

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on July 1, 2005. On June 2, 2005, the landlord collected a security deposit from the tenant in the amount of \$450. The tenancy ended on August 31, 2009. The landlord has applied for monetary compensation for damage the tenant caused to the unit and property.

The landlord has claimed the following costs:

- 1) \$1660 for replacement of carpeting in the rental unit – the landlord reduced their claim from \$2170 to \$1660 because they were not able to provide the invoice for the new carpeting, but did submit the invoice for the previous carpet installation, which occurred in 2005 just before the outset of this tenancy. The landlord's witness, a contractor, testified that the carpets in the unit were heavily soiled and could not be cleaned. In particular, there were oil stains in the living room near the fireplace and in the hallway, and one of the bedrooms was very badly oil stained. When the carpet was removed in that room, the oil had gone through the underlay and into the floor, and could not be removed. The landlord also submitted photographs depicting the stained carpets.
- 2) \$120 for 10 hours of cleaning, at \$12 per hour – the landlord's testimony was that 75 to 80 percent of the cleaning bill was for picking up car parts, junk and garbage that the tenant had left in the rental unit and property. The remainder of the bill was for general cleaning of the kitchen and bathroom. The landlord provided the receipt for the cleaning costs and photographs depicting garbage that the tenant had left behind. None of the photographs depicted areas of the kitchen and bathroom that required cleaning. The landlord indicated on a move-out inspection report that the kitchen and bathroom were dirty. However, the landlord did not carry out the move-out inspection with the tenant present, and the tenant did not sign the move-out inspection.
- 3) \$485.42 for yard cleanup – as set out in their invoice, a contractor for the landlord carried out extensive yard work after the end of the tenancy, as follows: "trim and cut over grown front and back lawns. Spray driveway for weed control. In back yard cut out and remove all blackberries and remove compost box behind shed. Pile all wood/metal debris in front of shed. Removal and disposal of all garden waste debris accumulated during the clean up." The landlord provided photographs depicting the condition of the yard and the extensive debris left in the back yard.

- 4) \$315 for hauling garbage – as set out in their invoice, a contractor removed and disposed of carpet, wood, metal and miscellaneous furniture. The landlord's testimony was that when cleaning of the house and the yard was done, all of the items to be hauled away were piled and left for the hauling company in the driveway of the property. These items included the heavy metal items and the compost box.

The response of the tenants on these items was as follows:

- 1) Carpeting – the tenant disputed the need to remove and replace all of the carpeting. The tenant acknowledged that there were oil stains in the spare bedroom, but the master bedroom was spotless. The tenant collected some pieces of the carpeting that had been removed from the rental unit and attempted to remove the stains with cleaning equipment. The tenant submitted photographs of the pieces of carpet he attempted to clean. The tenant's photographs show pieces of carpet with fainter but still obvious stains that the tenant submitted could have been removed by professional cleaners.
- 2) Cleaning costs – the tenant disputed the landlord's cleaning costs as excessive. The tenant provided a written statement from a person who carried out cleaning of the rental unit before the tenant moved out. This person stated that she used various commercially available cleaning products to clean the house including the walls, linoleum floors, cupboards and drawers but excluding the windows. The tenant also stated that an agent of the landlord arrived at the property on August 31, 2009 and told the tenant that he could leave behind the few items remaining in the basement and garage. This agent collected the house key from the tenant.
- 3) Yard cleanup – the tenant acknowledged that there was some yard cleanup required. However, the tenant argued that he should not be responsible for removal of the blackberry bushes or the compost box. The compost box was in the yard at the outset of the tenancy.

- 4) Hauling garbage – the tenant stated that there was no miscellaneous furniture left behind, and the only remaining garbage was as depicted in the landlord's photographs. As noted above, the tenant's position was that an agent of the landlord told the tenant on August 31, 2009 that he could leave behind the remaining garbage.

The landlord responded to the tenant's evidence by stating that he was unaware of any agent of the landlord giving the tenant permission to leave things behind, and that person would not have been authorized to do a move-out inspection.

Analysis

In considering all of the testimonial, documentary and admissible photographic evidence, I find as follows.

- 1) Carpeting – I accept the evidence of the landlord that the carpets were new at the outset of the tenancy, that the carpeting was badly stained in several parts of the rental unit, and that the stains could not have been removed by professional cleaning. The landlord is therefore entitled to compensation for the removal and replacement of carpets. The residential tenancy policy guidelines set out that the average life of carpeting is 10 years. I therefore find that the carpets had depreciated by 40 percent, and I reduce the landlord's claim of \$1660 by 40 percent, for a total of \$996.
- 2) Cleaning – I accept the evidence of the landlord that some garbage was left behind. I further accept the landlord's testimony that the tenant was not given permission by an authorized agent of the landlord to leave some items behind. However, the landlord did not provide sufficient evidence to support the claim for cleaning. The cleaning invoice did not provide a breakdown of specific charges for the work done. I therefore reduce the cleaning costs by half, for a total of \$60.
- 3) Yard cleanup – the tenant acknowledged that the back yard did require some cleanup, and I find the landlord's evidence does support that claim. However, a

landlord is typically responsible for landscaping and other major yard work, and I therefore find that the landlord, not the tenant, would have been responsible for removal of the blackberry bushes as well as the compost box. The invoice for the yard work did not provide a specific breakdown of the work done. I find it likely that the removal of the blackberry bushes in particular would have entailed a significant amount of work. I therefore reduce the landlord's claim on this item to \$200.

- 4) Hauling – I accept the landlord's evidence that there was debris to be hauled away, including some heavy metal debris. However, I find that some of the items hauled away, including the compost box, would not have been the tenant's responsibility. Further, the landlord did not provide sufficient evidence to establish that some of the hauling involved miscellaneous furniture. As with the other invoices, there was not a specific breakdown of costs for the items hauled. I therefore find it reasonable to reduce the hauling charge by one third, for a total of \$210.

The landlord is entitled to a total claim of \$1466. The landlord is also entitled to recovery of the \$50 filing fee, for a balance of \$1516.

Conclusion

I order that the landlord retain the deposit and interest of \$465.94 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1050.06. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: January 19, 2010.

Dispute Resolution Officer