



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a request for a monetary order for \$375.00.

Background and Evidence

The applicant testified that:

- On August 15, 2009 the water main at the rental property broke and when asked to do so the tenant refused to remove her belongings which were blocking the water shut-off valve. The landlord therefore paid \$50.00 to have someone move the tenant's belongings.
- At the end of the tenancy the tenant failed to return the keys until well after vacating and as a result the landlord had already had the locks changed at a cost of \$134.30.

- The tenant also left a bed and bed-frame behind at the end of the tenancy which the landlord had to dispose of a cost of \$50.00.
- The tenant was supposed to vacate on August 31, 2009 however she was not out of the rental unit until September 2, 2009 and therefore the landlord is asking for \$75.00 for the extra time that the tenant was in the rental unit.
- The tenant also damage some doorframes when moving furniture into the rental unit and therefore the landlord is asking for the cost of paint \$27.98 for white paint, and \$27.98 for blue paint.
- The doorframe in the rental unit will also have to be replaced however the cost for that at this time is unknown.

The applicant is therefore requesting an order for \$375.00.

The respondent testified that:

- She did not cause the damage to the water main and therefore it was not her responsibility to move the items that were blocking access to the shutoff valve.
- She returned all the keys that were given to her to the landlord and the only reason they returned late is because the landlord was not available to receive them on the date that had originally been arranged.
- She left nothing behind at the end of the tenancy and if there was a bed still there it was not hers.
- She was a couple of days late getting all of her items out of the rental unit; however she does not believe that she should have to pay for these extra days.
- The doorframes were scraped when her couch was moved into the rental unit however it was the landlords own boyfriend that caused the damage as he insisted on forcing the couch through the door even when the tenant told him he should stop.

The tenant therefore believes that this full claim should be dismissed.

Analysis

Moving belongings

I will not allow the claim for moving the tenant's belongings, as this cost was not the result of any negligence on the part of the tenant. If a water main breaks through no fault of the tenant, it is not her responsibility to remove items to allow access to the shutoff valve and if any cost results to do so that cost must be borne by the landlord.

Locks

I will allow the claim for locks as all keys should have been returned to the end of the tenancy and I accept the landlords claim that they were not. I do not find the tenants excuse for not returning them on time plausible.

Amount allowed \$134.36

Disposal of bed

It is my decision that the landlord has not met the burden of proving that the tenant left a bed and bed-frame behind at the end of the tenancy. It is just the landlord's word against that of the tenant, and the tenant claims that the bed was not hers. The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met.

Extra days

I also allow the claim for the extra days that the tenant was in the rental unit. The tenant should have vacated by August 31, 2009 however since she failed to do so the landlord is justified in claiming rent for the extra days.

Amount allowed \$75.00.

Paint and doorframe

I deny the claims for white paint, blue paint, and doorframe repair. The landlord admitted that her boyfriend was helping to move in the tenants furniture when this damage occurred and since there is conflicting testimony as to cause the damage is my finding that again the landlord has not met the burden of proving this portion of her claim.



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Conclusion

I have issued an order for the respondent to pay \$209.36 to the landlord. If the landlord is still holding the security deposit she may retain the above amount from that deposit and the remainder must be returned to the tenant.

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: January 05, 2010.

Dispute Resolution Officer