



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, MNDS, FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, seeking monetary orders for compensation under the Act or tenancy agreement, to keep all or part of the security deposit, and to recover the filing fee for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues(s) to be Decided

Is the Landlord entitled to the monetary compensation sought?

Background and Evidence

The Landlord is claiming for cleaning, repairing and painting the rental unit after the Tenants vacated. An Agent for the Landlord submitted that before the Tenants took possession, the rental unit had been completely repainted, the floors had been refinished and that a new washer/dryer had been installed.

The Landlord is also claiming for a flea treatment they allege was done some two weeks after the Tenants vacated.

The Landlord is claiming \$697.50 for cleaning the rental unit, \$133.33 for paint and supplies, \$10.49 for cleaning supplies, and \$240.00 for interior house treatment for fleas, for a total of \$1,081.32.

The Agent for the Landlord had met with the Tenants late in the day when they were moving. A "walk through" was done at that time, and the Agent informed the Tenants that some cleaning was still required. The Agent for the Landlord apparently told the Tenants that a final condition inspection report would be done the next day. The Agent

claims that he told the Tenants another “walk through” would be required the next day and they could be there if they wanted.

The Tenants did not participate in the final condition inspection report as they claim they were told by the Agent for the Landlord that they did not have to be there.

The Agent for the Landlord went to the rental unit the next day to do the final condition inspection report. The Agent alleges there was a lot more damage visible in the rental unit during the daylight.

The Tenant testified she was surprised by the amount of hours the Landlord has claimed for cleaning the rental unit. Based on their “walk through” with the Agent for the Landlord the night before, the Tenants apparently expected a few hours of work and did not know how many hours the Landlord was claiming for until they received the Application.

The appearing Tenant acknowledged that there might have been some minor damage done to the rental unit and some cleaning still required. She acknowledged the pets the Tenants had would have left footprints. She alleges she knows nothing about the flea infestation, as she did not take all the pets with her.

Analysis

Based on the foregoing, the testimony and evidence, and on a balance of probabilities, I find that the **Landlord has only been partially successful** in proving the claim against the Tenants.

When making a claim for damages under a tenancy agreement or the Act, the party making the allegations, here the Landlord, has the burden of proving the claim.

Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or Act, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

In this particular case the Landlord has insufficient evidence to show verification of the actual losses or damages claimed. There were no receipts or invoices submitted in evidence for a flea extermination service, or for the claims of paint, supplies or cleaning materials. There were no photographs of the rental unit supplied indicating the extent of cleaning or painting required. Finally, no condition inspection reports were submitted by the Landlord.

Therefore, I am only satisfied that some cleaning of the rental unit was required, as corroborated by the Tenant at the hearing, and I award the Landlord the sum of \$250.00 for cleaning the unit and for minor repairs.

As the Landlord has been only partially successful in the claim, I award \$25.00 toward the filing fee for the Application.

I find that the Landlord has established a total monetary claim of **\$275.00** comprised of the above described amounts.

I order that the Landlord may retain \$275.00 from the deposit of \$900.00, in full satisfaction of the Landlord's claim. Pursuant to the Act and policy guidelines **I order the Landlord to return the balance of \$625.00 to the Tenants.**

The Tenants are granted an order in those terms, and the order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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: February 18, 2010.

Dispute Resolution Officer