



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, MNSD, MNDC, 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. Despite having been personally served with the application for dispute resolution and notice of hearing on November 27, the tenants did not participate in the conference call hearing.

The tenants submitted a written statement to the Residential Tenancy Branch. As the tenants did not appear at the hearing to enter this statement into evidence, it has not been considered.

Issues(s) to be Decided

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The landlord's undisputed testimony is as follows. The tenancy began on July 1, 2009 and ended on or about September 28, 2009. Rent was set at \$1,100.00 per month and at the outset of the tenancy the tenants paid a \$550.00 security deposit. The tenancy agreement provides that the tenancy was to continue for a fixed term ending on June 30, 2010 and contains a liquidated damages provision which requires a \$550.00 payment to the landlord in the event that the tenants terminated the tenancy prior to the end of the fixed term. The tenants failed to pay rent in the month of September and vacated the rental unit pursuant to a 10-day Notice to End Tenancy which was served on them by the landlord.

The tenants did not professionally clean the carpets despite a provision in the tenancy agreement requiring professional cleaning immediately prior to vacating the rental unit. The landlord testified that a carpet cleaning company was hired at a cost of \$95.00. the landlord did not provide an invoice showing the cost of the carpet cleaning. The tenants did not adequately clean the rental unit, including the blinds. The landlord testified that they incurred a cost of \$30.00 to clean the blinds and a further \$95.00 for general cleaning as well as a \$19.00 charge for cleaning materials. The landlord did not provide an invoice showing the cost of cleaning the unit. The landlord testified that the rental unit had been painted immediately prior to the beginning of the tenancy and that the tenants caused damage to the walls of the unit, requiring the landlord to repaint the unit at a cost of \$150.00 for labour and \$57.50 for materials. The landlord seeks to recover unpaid rent and liquidated damages as well as the cost of cleaning the unit, carpets and blinds and repainting the unit.

Analysis

I accept the undisputed evidence of the landlord with respect to the rent and liquidated damages issues. I find that the tenants failed to pay \$1,100.00 in rent in the month of September and further find that their failure to do so amounted to a breach of the tenancy agreement, which led the landlord to end the tenancy. I find that the tenants are liable for \$550.00 in liquidated damages pursuant to the provision in the tenancy agreement. I award the landlord \$1,100.00 in unpaid rent and \$550.00 in liquidated damages.

With respect to cleaning charges, the landlord has the obligation of proving both liability and the quantum of their claim. I accept that the rental unit, the carpets and the blinds were not cleaned at the end of the tenancy and that the tenants were required to perform such cleaning, but I find that the landlord has failed to prove the cost of those services. In the absence of invoices showing the cost I find that the landlord has not proven the quantum of his claim and accordingly I dismiss the landlord's claim. The landlord did not provide any photographs of the rental unit and therefore did not give me the opportunity to determine whether the damage which the tenants allegedly did to the

walls was beyond what might be characterized as reasonable wear and tear. As I am unable to determine whether the damage was reasonable wear and tear, I find that the landlord has failed to prove that the tenants should be held liable for the damage and accordingly I dismiss the claim.

I find that the landlord is entitled to recover the \$50.00 filing fee paid to bring the application.

In summary, the landlord has been successful in the following claims:

Unpaid rent	\$1,100.00
Liquidated damages	\$ 550.00
Filing fee	\$ 50.00
Total:	\$1,700.00

Conclusion

The landlord has established a claim for \$1,700.00. I order that the landlord retain the \$550.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,150.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: February 03, 2010
