

DECISION

Dispute Codes MNDC, MNR, MNSD, FF

Introduction

A substantial amount of documentary 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 and the witness the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witness.

All testimony was taken under affirmation.

Issues(s) to be Decided

This was a request for a monetary order for \$2670.00, and a request retain the full security deposit plus interest towards the claim; however the claim was subsequently reduced to \$2128.00.

Background and Evidence

The applicant testified that:

- The respondents had signed a four-month lease that went to the end of August 2009 however in June of 2009 they had agreed in an e-mail that they would sign a one year lease to run to September of the following year.
- He had intended to have the tenants sign that one year lease when he visited in August of 2009 however he neglected to do so, and he cannot recall whether he even mentioned it to the tenants at that time.
- The tenants continued to live in the rental unit past the end of the original lease and in fact stayed to the end of January 2010.

- He had forgotten that the tenant had not signed the new lease, and thus was surprised when they served him with notice that they would be vacating the rental unit at the end of January 2010.
- The tenants also failed to have the carpets professionally cleaned, as required by the tenancy agreement, when they vacated the rental unit.
- The tenants also left the windows and windowsills in the rental unit in need of cleaning and although this was not mentioned during the move-out inspection, his brother had found later on that this work needed to be done.
- The tenants also failed to clean under the stove and under the fridge when they vacated.

The applicant therefore argues that the tenants should be bound by their verbal agreement to sign a one year lease and should bear any losses to the landlord that resulted from the tenants vacating prior to the end of that one year, or subsequently if they are not bound by that one year lease they should be considered overholding tenants and again should bear any losses that resulted to the landlord due to their overholding past the end of the original lease.

The applicant also argues that the tenant should bear carpet cleaning, windowsill cleaning, and under stove and fridge cleaning costs.

The applicant is therefore requesting an order as follows:

lost rent and power revenue	\$1173.00
Carpet cleaning	\$200.00
Window and still cleaning	\$125.00
Cleaning under stove and fridge	\$80.00
Filing fee	\$50.00
Total	\$2128.00

The applicant is therefore requesting an order that he be allowed to retain the full security deposit of \$875.00 towards this claim, and that a monetary order be issued for \$1253.00.

The tenants testified that:

- They signed a four-month lease that went to the end of August 2009.
- In June of 2009 they received an e-mail from the landlord asking them if they were willing to commit to a one year lease starting September 1, 2009.
- At that time they had stated that they would be willing to sign the one year lease; however when their lease expired at the end of August 2009 the landlord did not approach them to sign a new lease and therefore they assumed that he had changed his mind about requiring a lease.
- They had given the landlord post-dated cheques and the landlord continued to cash those cheques and therefore they also assumed that they were now on a month-to-month tenancy.
- They gave the landlord the notice required under the Residential Tenancy Act, and vacated the rental unit at the end of January 2010.
- When they vacated the rental unit they had cleaned the carpets themselves with a rented carpet cleaning unit and therefore they did not need any further cleaning.
- I also left the windows and sills clean and during the move-out inspection there was no mention made, by the landlords agent, of any need for further cleaning of the windows or sills.
- They did not clean under the stove and fridge because he was unable to move them to do so.

The respondents therefore do not believe that they are bound by any lease, that they over held, or that they should be held liable for any of the landlords claimed losses.

The respondents also do not believe they should be held liable for any further cleaning as they left the rental unit in clean condition.

Analysis

Based on the information presented it is my finding that the tenants are not bound by a verbal one year lease. In the e-mail of June 25, 2009 the tenant stated that they will sign a lease for one year, however that cannot be considered a binding agreement, only a willingness by the tenants to sign a lease.

Since the landlord never approached them to sign a new lease it was a reasonable assumption, on the tenants part, to assume that the landlord had decided that a lease was not required.

It is also my finding that since the landlord accepted rent and continued to cash the tenants rent cheques for many months past the end of the original lease, that this tenancy became a month-to-month tenancy. Therefore since the tenants gave the proper notice required under the Residential Tenancy Act for a month-to-month tenancy and vacated on the date required by that notice, they cannot be considered to be overholding tenants.

I therefore will not allow the landlords claims for lost rental and power revenue, or liquidated damages.

I also deny the landlords claim for cleaning costs. Under the Residential Tenancy Act a tenant is responsible to maintain "reasonable health, cleanliness and sanitary standards" throughout the premises. Therefore the landlord might be required to do extra cleaning to bring the premises to the high standard that they would want for a new tenant. The landlord is not entitled to charge the former tenants for the extra cleaning. In this case it is my decision that the landlords have not shown that the tenants failed to meet the "reasonable" standard of cleanliness required.

The landlords own witness stated that the carpets were reasonably clean which is all that is required under the Residential Tenancy Act, and no mention of dirty windows or sills was made during the moveout inspection, and therefore the landlord cannot come back later on and charge the tenants for cleaning windows and sills. Further since fridges and stoves are difficult to move, it's reasonable that the landlords should expect

that this is an area that they may have to do some of the extra cleaning required to bring the premises up to the high standard they want for re-renting.

Conclusion

This application is dismissed in full without leave to reapply, and I have issued an order for the landlord to return the full security deposit of \$875.00 to the tenants.

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: April 26, 2010.

Dispute Resolution Officer