

INTERIM DECISION

Dispute Codes MNSD MND FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a monetary order for damage to the unit, site, or property, to keep the security and or pet deposit, and to recover the cost of the filing fee from the Tenant for this application.

Service of the hearing documents, by the Landlord to the Tenant, was done in accordance with section 89 of the *Act*, served personally to the Tenant by the Landlord on December 18, 2009. The Tenant confirmed receipt of the hearing package.

The parties appeared, acknowledged receipt of evidence submitted by the other, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, in documentary form, and to cross exam each other.

Issues(s) to be Decided

Is the Landlord entitled to a Monetary Order under sections 38 and 67 of the *Residential Tenancy Act*?

Background and Evidence

The month to month tenancy agreement began on October 1, 2007, with the Tenant and her spouse. A security deposit was paid on October 1, 2007 in the amount of \$425.00. A new tenancy agreement was entered into with the Tenant on September 1, 2008 after her spouse moved out of the rental unit. Rent was payable on the first of each month in the amount of \$850.00. The Tenancy ended on October 31, 2009 after the Tenant provided the Landlord with notice to end the tenancy. No move-in inspection or move-out inspection forms were completed and signed by the Landlord and Tenant.

The rental unit was a 3 bedroom, 1 ½ bathroom, two level, half duplex which was built in the mid 1970's. The Landlord has owned the half duplex since approximately 1990 and occupied it with her family until approximately 2002. The unit was occupied by the Landlord's sister and adult child from 2002 to 2005; rented to a family with two children from approximately 2005 to 2007; rented to the Landlord's female friend for approximately six months; and then rented to the Tenant from October 1, 2007. The Landlord testified the carpet in the master bedroom was replaced in 2004, and the

carpet in the living room, hallway, and the carpet on the stairs and upstairs hallway were replaced in 1996. The linoleum in the kitchen and bathrooms were replaced in 1995. The entire unit was painted in 2007 and the carpets steam cleaned in 2007 prior to the Tenant occupying the unit.

Witness (1), the Landlord's sister, testified that she spoke to the Tenant on the phone prior to the end of October 2009 to confirm when the carpets would be steam cleaned and when they could set up a time for the move out inspection. Witness (1) stated that she attended the rental unit on October 28, 2009, with Witness (2), that the Tenant had already vacated the unit, so they began to do the move out inspection. Witness (1) stated that they walked around and noticed the carpets looked dirty even though this was the date they were cleaned. Witness (1) stated that it was Witness (2) who set up the time for the inspection so she did not know if the Tenant was expected to be there. Witness (1) argued that when they attended on October 28, 2009, the door was unlocked and the suite was vacant. When asked if a move-out form was completed Witness (1) stated that Witness (2) was looking after all of the paperwork.

Witness (2), the Landlord's friend, testified she lives out of town and that she only came to town to assist her friend with the move out of the Tenant. Witness (2) stated that she arrived at the rental unit alone, on October 28, 2009, with the intention of speaking to the Tenant about using a specific carpet cleaner however when she arrived the door was unlocked and the suite was empty. Witness (2) confirmed that she had no previous conversations with the Tenant to set up a meeting time as she did not have the Tenant's phone number. Witness (2) stated that she did a quick walk through and found the carpet was still wet by the door, she was concerned that maybe not all of the carpet was cleaned, and there were a few other cleaning issues that needed attention. Witness (2) confirmed that she completed this first walk through alone as she had not picked up Witness (1) yet. After the initial walk through Witness (2) went across the street to the Tenant's parent's house and provided the Tenant's parents with a list of items that still needed cleaning. Witness (2) stated that she wrote her phone number on the top of the paper requesting the Tenant to contact her if more information was required, and noted on the bottom of the list that proof of professional carpet cleaning and treatment for fleas was required.

Witness (2) argued that when the Landlord attended the rental unit on October 22, 2009 to take photos to put the house up for sale, they noticed the Tenant had dogs in the house, which is why the Tenant was required to have the carpets treated for fleas. Witness (2) confirmed that she had no evidence or indication that there were in fact fleas in the carpet.

Witness (2) confirmed the Tenant contacted her before the end of October 2009, that all of the items on her cleaning list were attended too, and “there were no issues with the move-out”. Witness (2) testified there was no prior arrangements made with the Tenant to conduct the move-out inspection, there were no written requests issued to the Tenant to attend a move –out inspection, and there was no final notice of inspection issued to the Tenant. Witness (2) stated that the Landlord had left the Tenant’s security deposit with her to return to the Tenant however Witness (2) decided not to return the security deposit to the Tenant because Witness (2) was waiting for the carpet cleaning receipt and keys to be returned. Witness (2) argued she was not convinced that the carpet had been professional cleaned and she told Tenant she wanted proof.

Analysis

All matters were not reviewed due to expiry of the hearing time therefore the hearing has been adjourned and scheduled to reconvene in accordance with section 64 of the *Residential Tenancy Act*.

Additional documentary evidence will not be accepted from either party in support of this claim. Consideration will be given to the documentary evidence received prior to the May 21, 2010, hearing.

Conclusion

This hearing is adjourned to the date specified in the enclosed Notice of Adjourned Hearing.

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: May 25, 2010.

Dispute Resolution Officer