

DECISION

Dispute Codes MNSD, MND, FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlord has applied for a monetary order and the tenants have also applied for a monetary order.

The hearing was conducted via teleconference and was attended by the landlord only. The tenants did not attend.

This matter was originally scheduled for a hearing on April 12, 2010. At that hearing one of the tenants did appear and noted they had moved since they had filed their application and so were not served with the landlord's evidence.

The tenant provided the landlord and me with her forwarding address and a notice of a reconvened hearing was sent directly from the Residential Tenancy Branch to both parties.

The landlord testified that she had served the tenants with her evidence via registered mail and that she had checked the tracking number and confirmed the tenants had received the mail. I am satisfied the tenants were sufficiently served with notice of this hearing and with the landlord's evidence.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for damages to the rental unit; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to sections 37, 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

In addition it must be decided whether the tenants are entitled to a monetary order for double the amount of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Act*.

Background and Evidence

The tenancy began on February 1, 2009 as a month to month tenancy for a monthly rent in the amount of \$550.00 due on the 1st of the month, with a security deposit of \$275.00 paid in January, 2009. The tenancy ended on October 31, 2009.

The tenants submitted an original handwritten note addressed to the landlord dated November 6, 2009 requesting return of the security deposit and providing the landlord with the forwarding address.

The landlord submitted into evidence:

- A summary of issues for not returning the security deposit;
- A copy of a handwritten notice dated March 6, 2009 outlining a number of issues related to the tenancy;
- 8 receipts from a local home improvement store dating from June 11, 2009 to December 8, 2009; and
- 5 photographs of damaged walls and garbage left behind.

The landlord testified that she had not received the tenants' original forwarding address until she had been served with the notice of the original hearing. She also stated that the tenants and she had walked through the rental unit at the end of the tenancy but that no inspection report had been completed.

The landlord testified the receipts submitted included additional items and that they were only seeking costs for the paint and paint supplies. The landlord noted also that her husband had to take time off work in order to complete the painting and therefore his claim for lost income.

Analysis

Section 37 of the *Act* requires a tenant who is vacating a rental unit to leave the unit reasonably clean and undamaged except for reasonable wear and tear. In the absence of any contradictory testimony from the tenants I am satisfied that the condition of the rental unit is as shown in the landlord's photographs. I find the tenants did not comply with Section 37 when they vacated the rental unit.

Section 38 of the *Act* requires a landlord to return a security deposit within 15 days of the end of the tenancy and receipt of the tenant's forwarding address or file an Application for Dispute Resolution to claim against the security deposit. In the absence of any contradictory testimony from the tenants and despite the original document submitted by the tenants, I am satisfied the landlord was not provided with the forwarding address until she was served with the notice of the original hearing.

As to the landlord's receipts, I note that there was one receipt dated June 11, 2009 and as this was prior to the end of the tenancy, I have not considered in my decision. I find the dollar value of the paint and supplies required by the landlord, based on the applicable receipts, to be in the amount of \$369.31.

I also find the landlord's claim that it took 2-3 days to paint the rental unit to be a reasonable timeframe and although the landlord did not provide an hourly rate, I find

that \$20.00 per hour to be reasonable. As such, I find the tenant must compensate the landlord for the time taken to paint the rental unit in the amount of \$400.00, based on 2.5 days at 8 hours per day.

Conclusion

As to the tenants' application, because the tenants did not attend and provide any testimony in support of their claim, I dismiss their application in its entirety, without leave to reapply.

I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$819.31** comprised of \$769.31 for painting and painting supplies and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$275.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$544.31**. This order must be served on the tenants and 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: May 28, 2010.

Dispute Resolution Officer