

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

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

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a request for a monetary order for \$4391.52. The applicant is also requesting that the respondent bear the \$50.00 cost of the filing fee that was paid for his application for dispute resolution.

Background and Evidence

The applicant testified that:

- A leak occurred from his rental unit that caused damage in the suite below and as a result he issued two cheques to cover the cost of the repairs to that suite. One check for \$1041.51 for flooring, and one check for \$350.00 for drywall repair.
- These cheques were not issued to the landlord but were issue directly to the flooring company and the drywall company.
- The applicant now believes that he is not responsible for the damage and therefore he wants the landlord to reimburse him for the amounts he has paid.
- He is also requesting that the landlord return his full security deposit double, because although he has requested the return of the deposit and has issued a

forwarding address in writing to the landlord on January 19, 2010 the landlord has still not returned the deposit.

- The landlord also failed to do a move-out inspection report at the end of the tenancy.

The applicants therefore request an order as follows:

| | |
|---------------------------------|-----------|
| Cost of flooring repairs | \$1041.51 |
| Return of security deposit | \$1500.00 |
| Double security deposit penalty | \$1500.00 |
| Interest on security deposit | \$0.55 |
| Filing fee | \$50.00 |
| Total | \$4442.06 |

The respondent testified that:

- There was a leak from the rental unit caused by the tenant adapting the plumbing without consent.
- The tenant knows that he was responsible for the leak and that is why he issued cheques to the flooring company and the drywall Co..
- The cheques that were issued by the tenants have not been cashed and in fact were passed on to the landlord to hold.
- The tenant did not issue any money to the landlord for the cost of these repairs.
- The tenant had initially agreed to allow the landlords to hold onto the security deposit until the cause of the leak was determined.
- The tenant did send a letter in January requesting return of the security deposit, however the landlord had already informed the tenant that the deposit was being held until the cause of the leak was determined, and therefore the security deposit was not returned.

The respondent therefore requests that this application be dismissed.

Analysis

Flooring and drywall repairs

The cheques issued by the tenant for flooring and drywall repairs were not issued to the landlord and are not in the landlord's name. Further the landlord did not force the tenant to issue those cheques and in fact he was initially unaware that they had been issued.

The tenant now claims that the damages were the result of faulty caulking in the rental unit, and therefore the landlord should reimburse him for the amounts paid, however the tenant has provided no evidence to prove what caused the damages to the suite below his.

Therefore I will not order landlord to reimburse the tenant for the cheques he issued.

Security deposit double

The landlord has not returned the tenants security deposit or applied for dispute resolution to keep any or all of tenant's security deposit and the time limit in which to apply is now past.

The Residential Tenancy Act states that, if the landlord does not either return the security deposit or apply for dispute resolution within 15 days after the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing, the landlord must pay the tenant double the amount of security deposit.

This tenancy ended on December 31, 2009 and although the landlord claims the tenant told him to hold onto the security deposit until liability for the leak was determined, the tenant denies that claim and in fact the tenant gave the landlord a forwarding address and a request for return of the security deposit, in writing in a letter dated January 19, 2010.

There is no evidence to show that the tenant's right to return of the deposit has been extinguished.

Therefore, the landlord must pay double the amount of the security deposit to the tenant.

The tenant paid a deposit of \$1500.00 and therefore the landlord must return \$3000.00 plus interest of \$.55 for a total of \$3000.55.

I further order that the respondent landlord bear the \$50.00 filing fee that was paid for the application for dispute resolution.

Conclusion

I have issued an order for the respondent to pay \$3050.55 to the applicant. The remainder of the claim is dismissed without leave to reapply.

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: June 01, 2010.

Dispute Resolution Officer