

DECISION

Dispute Codes MNDC, 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 decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The landlord's application is a request to retain the tenants full security deposit, and a request that the tenants bear the \$50.00 cost of the filing fee that they paid for their application for dispute resolution.

The tenant's application is a request for a monetary order of \$1950.00 which includes their \$50.00 filing fee.

Landlords application

Background and Evidence

The landlords testified that:

- At the end of the tenancy the tenants left the rental unit in a dirty and damaged condition.
- As a result they had to do substantial amount of cleaning and repairs.
- They had to have a handyman remove and replace broken sensor lights and install a new range.
- They had to replace a heat vent in the kitchen floor it was damaged by packing tape.
- They had to clean up debris from the yard and re-seed areas of the lawn that had been killed by the tenants swimming pool, trampoline, basketball hoop, etc..
- They also had to do substantial cleaning inside the rental unit.

The landlords are therefore requesting an order that they be allowed to retain the full security deposit to cover their costs which total \$759.00.

The tenants testified that:

- They left the rental property clean and with no damage beyond normal wear and tear.
- They did forget to clean a few things, but in general they left their unit very clean.
- They did break a sensor light however it broke under normal use while trying to remove a light bulb that was stuck. This was a very old looking light.
- The range hood that the landlord has replaced was a very old range hood and in poor condition.
- They did a very thorough move-out inspection with the landlords and none of these damages or cleaning was mentioned on their copy of the move-out inspection which was signed by the landlord.
- The only damage mentioned on their copy of the move-out inspection was door in kitchens and dents.

The tenants therefore believe that the landlords claim should be dismissed in full as there were no damages beyond normal wear and tear in the rental unit was left reasonably clean.

Analysis

It is my decision that the landlords have not met the burden of proving that this rental unit was left in need of substantial cleaning and repairs.

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 signed the tenant's copy of the move-out inspection and other than a few minor things there is no mention of any need of cleaning and repairs. The landlord's move-out inspection report varies greatly from the tenants; however it is my decision that I accept the tenants copy as being the valid copy as it was signed by the landlords. The landlord should have insured at the time of filling out the move-out inspection reports, that both copies were the same.

It is also my finding that the sensor light, and the range hood were both quite old and therefore are considered to be completely depreciated and of no value and therefore I will not allow the landlords claim for replacement of these items.

The landlords also claim that they did not do a thorough move-out inspection however again it is the landlords responsibility to ensure that the move-out inspection is done correctly and if they fail to do so they cannot then claim there are further damages and repairs needed that were not listed on the inspection report.

Conclusion

The landlord's application is dismissed in full without leave to reapply

Tenants application

Background and Evidence

The tenants testified that:

- The landlords listed the rental property for sale while they were still tenants.
- The landlord's viewed the property and informed them that they would have to do substantial cleaning so that the rental property would look better for selling.
- The female tenant had just recently had surgery and was unable to do the extensive amount of cleaning requested by the landlords and therefore they had to hire someone to do the cleaning required.

The tenants are therefore requesting an order as follows:

Cleaning February 15, 2010	\$90.00
Cleaning February 17, 2010	\$110.00
Cleaning February 18, 2010	\$90.00
Return of security deposit double	\$1500.00
Filing fee	\$50.00
Total	\$1950.00

The landlords testified that:

- They did list the rental property for sale and requested that the tenant's cleanup the property as it was in a very dirty condition.
- They also asked the tenants to move some furniture during showings to allow access, as some of their furniture was blocking passageways.
- They did not offer to pay the tenants to do this cleaning, as it was the tenants own mess and dirt that needed to be cleaned up.

The landlords therefore believe this claim should be dismissed in full.

Analysis

The landlords were certainly within their rights to list the property for sale, and there is no reason why they should not ask the tenants to clean up the property to make it more presentable, because as I stated earlier, under your the Residential Tenancy Act a tenant is responsible to maintain "reasonable health, cleanliness and sanitary standards" throughout the premises. The landlords however could not force the tenants to do any further cleaning if the tenants felt that they were maintaining reasonable health, cleanliness, and sanitary standards.

In this case the tenants did comply with the landlords request; however I am not willing to order that the landlords pay for that cleaning, as the landlords never offered to pay the tenants to clean.

I will however order that the landlords return the full \$750.00 security deposit to the tenants, because as stated previously I have denied the landlords request to retain it.

I will not order that the deposit be returned double, because the landlords applied for dispute resolution within the time limit set out in the Residential Tenancy Act.

I will allow the tenants request for the filing fee however, as I have allowed a substantial amount of the tenants claim.

Conclusion

I have issued an order for the landlords to pay \$800.00 to the tenants. The remainder of the tenants 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: July 22, 2010.

Dispute Resolution Officer