

DECISION

Dispute Codes MND, MNSD, MNDC, FF, O

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution for a monetary order.

The hearing was conducted via teleconference and was attended by the landlord, his witness and the tenants.

At the outset of the hearing I noted, based on the tenant's evidence, that it appear the matter of the return of the tenant's security deposit had been decide at a previous hearing on March 26, 2010. The landlord agreed to amend his application to exclude the return of the security deposit.

The landlord stated that he had provided some additional evidence to the residential tenancy branch, particularly photographs. The landlord could not tell me when he submitted those to the branch and the tenant's noted that they had not received any photographs.

The tenant's stated the only evidence they received was the invoice from the landlord's contractor. The stated they did not receive a copy of a letter dated April 19, 2010 from the landlord's property manager to the landlord regarding the state of the rental unit at the start of the tenancy.

The landlord testified that he had sent that letter to the tenants via registered mail and then testified that he had a tracking number. The landlord quoted the tracking number, but it was the same tracking number that he had provided with his Canada Post receipt dated March 31, 2010.

I find the landlord failed to provide any evidence other than the invoice and the notice of hearing package to the tenants. I also note that I have not considered the letter dated April 19, 2010 from the landlord's property manager in this decision, as I accept the tenants did not receive this letter.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for damage to the rental unit and compensation for damage or loss under the *Residential Tenancy Act (Act)* and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 67, and 72 of the *Act*.

Background and Evidence

The landlord testified that the tenants had left substantial damage to the rental unit as outlined in the invoice that he submitted into evidence as follows:

| Description | Cost |
|---|-------------------|
| Damaged hardwood floor; | \$400.00 |
| Replace the door for the storage unit; | \$400.00 |
| Repair of broken closet door in hallway; | \$100.00 |
| Cleaning of unit; | \$250.00 |
| Replacing broken toilet paper holder in bathroom #1; | \$75.00 |
| Replacing shower faucet in shower #2; | \$100.00 |
| Replacing of kitchen sink faucet gaskets and sealant; | \$75.00 |
| Repair the oven for the stove; | \$350.00 |
| Repair the ceiling and the wall; | \$480.00 |
| Carpet cleaning 2 rooms; and | \$120.00 |
| Painting the unit | \$820.00 |
| Total | \$3,170.00 |

The landlord described the damage for each item noted above and had his witness provide testimony as to what work he completed in the rental unit. The witness however could not explain why there is reference to bathroom #1, shower #2 and carpet cleaning in 2 rooms, as this unit was a one bedroom, one bathroom unit and the only room with carpets was the one bedroom.

Analysis

In order to be successful in making a claim for compensation for damages against another party, the onus of proof is on the applicant and they must provide evidence to show:

1. That a loss or damage exists;
2. That the loss or damage results from a violation of the *Act*, regulation or tenancy agreement;
3. What the value of the damage or loss is; and
4. Steps were taken to mitigate any damage or loss.

When faced with disputed testimony between two parties regarding the condition of the rental unit at the end of the tenancy it is, by its nature, virtually impossible for a third party to interpret when trying to resolve disputes as they arise. As such, the requirement of documentary evidence is paramount for one party to provide sufficient evidence to validate their claim for compensation.

I find the landlord's testimony and that of his witness to be unreliable to make finding in favour of the landlord. I also find the absence of any documentation of any damage, either in the form of photographic evidence or a completed move out condition inspection report the landlord has failed to provide evidence to support his claim.

Conclusion

Based on the above findings, I dismiss the landlord's Application, in its entirety, 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 23, 2010.

Dispute Resolution Officer