Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes   MNSD, FF

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's agent and the tenant. Despite the hearing starting at 9:30 a.m. the landlord's agent attended starting at 9:40 a.m.

Issues(s) to be Decided

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

Background and Evidence

The tenancy began in September, 2009 as a 1 year fixed term tenancy for a monthly rent of $1,450.00 due on the 1st of the month, a security deposit of $725.00 was paid.

The landlord requested to retain the security deposit citing that the tenant owed rent in the amount of $1,450; liquidation costs of $750.00; carpet cleaning of $89.25; cleaning and materials of $75.06; and for the removal of garbage of $126.00.

The landlord provided no documentary evidence to support this claim. The landlord did not provide a copy of the tenancy agreement or account ledger. The landlord provided no receipts or copies of condition inspection reports for either the start or the end of the tenancy.

The tenant provided a copy of a note to the landlord dated March 17, 2010 providing the landlord with his forwarding address.

Analysis

When one party makes a claim for damage or loss they must provide sufficient evidence to prove the following points:

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. The value of the damage or loss; and
4. Steps were taken to mitigate the damage or loss.

As the landlord has failed to submit a copy of the tenancy agreement, I cannot determine if there was a liquidation cost clause in the tenancy agreement. As the landlord has failed to submit a tenant account ledger or documentary evidence of how and when the tenancy ended or what month the landlord is claiming rent for, I cannot determine if the tenant owes the landlord any rent.

As the landlord has failed to provide any evidence regarding the condition of the rental unit before the start of the tenancy or after the end of the tenancy or any evidence of the costs the landlord is claiming related to the condition at the end of the tenancy, I cannot determine if the landlord suffered any loss or damage.

In the absence of any evidence from the landlord, I find that the landlord has failed to establish that a loss or damage exists, that the loss or damage results from a violation of the *Act*, regulation, or tenancy agreement, or what the value of any loss or damage may have been.

Conclusion

Based on the above, I dismiss the landlord's application in its entirety, without leave to reapply.

As result, I find that the tenant is entitled to the return of the security deposit and I therefore grant a monetary order in the amount of **$725.00**. This order must be served on the landlord 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: August 06, 2010.

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Dispute Resolution Officer