



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, MNSD, MND, MNR, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order and a cross-application by the landlord for a monetary order. Both parties participated in the conference call hearing.

Issues to be Decided

Is the tenant entitled to a monetary order as claimed?

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that the tenancy began on December 15, 2008 and that the tenant vacated the rental unit on April 1, 2010. The parties further agreed that the tenant paid a \$725.00 security deposit.

The tenant testified that she gave her forwarding address on the condition inspection report on March 31 when she and the landlord's agent, G., conducted an inspection of the unit. The landlord testified that she herself did not receive the tenant's forwarding address but acknowledged that her agent may have received it. The tenant claims the return of double her security deposit pursuant to section 38 of the Act.

The landlord testified that the tenant was obligated to pay rent until April 30, 2010 pursuant to the terms of the fixed term tenancy agreement. The tenant testified that both the landlord and G. told her that she could vacate the rental unit prior to the end of

the term. The tenant further testified that on March 14 she was asked to provide written notice, which she did at that time. The landlord testified that she had agreed that the tenant could end the tenancy prior to the expiry of the fixed term only if she provided written notice. The tenant acknowledged that she was aware that the landlord intended to sell the rental unit at the end of the tenancy and would not be re-renting the unit. The landlord seeks to recover \$1,350.00 in lost income for the month of April.

The landlord testified that the tenant failed to adequately clean the rental unit, failed to clean the carpet at the end of the tenancy and broke a faucet in the rental unit.

Specifically, the landlord testified that the tenant failed to adequately clean the kitchen, which required an additional 3 hours of cleaning. The tenant acknowledged that she did not clean the carpet but argued that she thoroughly cleaned the rental unit and that the faucet was not broken at the end of the tenancy. The tenant provided a copy of the condition inspection report, signed by G., which does not indicate any issue with the condition of the rental unit. The landlord seeks to recover the cost of cleaning and repairs.

Analysis

First addressing the tenant's claim, section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. I find that G. was the landlord's agent and that he received the tenant's forwarding address on March 31, 2010. I find the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address and is therefore liable under section 38(6) which provides that the landlord must pay the tenant double the amount of the security deposit.

The landlord currently holds a security deposit of \$725.00 and is obligated under section 38 to return this amount together with the \$0.51 in interest which has accrued to the date of this judgment. The amount that is doubled is the base amount of the deposit. The tenant is awarded \$1,500.51 which represents double the security deposit, \$0.51 in

interest and the \$50.00 filing fee paid to bring this application, which I find she is entitled to recover.

As for the landlord's claim, I find that the tenant was bound by the terms of the written tenancy agreement. The tenant did not produce G. as a witness to testify that he had released her from the terms of that agreement or that he excused her from the landlord's purported requirement to provide written notice that she was terminating the lease early. I find that the tenant has not proven that she was excused from complying with the tenancy agreement or with the landlord's demand for written notice and I find that she must be held liable for the loss of income suffered by the landlord for the month of April. I award the landlord \$1,350.00.

The condition inspection report does not indicate that there are any issues whatsoever with the rental unit. While it is possible that some issues may have been hidden, I find it unlikely that the landlord's agent would have overlooked an unclean kitchen which required 3 hours of work or that he would have overlooked a faucet which from the landlord's photograph is obviously broken. Further, the invoice the landlord submitted to show that a broken faucet was repaired identifies a job site at a completely different address. I dismiss the claims for cleaning and faucet repair.

I find that the tenant must be held responsible for carpet cleaning. Residential Tenancy Policy Guideline #1 states that tenants who reside in a rental unit for more than one year should clean carpets at the end of the tenancy. I find that the tenant must be held responsible for the cost of cleaning the carpets and I award the landlord \$105.00. I also find that the landlord is entitled to recover the \$50.00 filing fee paid to bring her application for a total award of \$1,505.00.

Conclusion

The tenant has been awarded a total of \$1,500.51 and the landlord has been awarded a total of \$1,505.00, leaving a balance of \$4.49 payable by the tenant to the landlord. I find that such an award falls within the de minimis range and I decline to grant the landlord an enforceable order for such an insignificant sum.

Dated: September 13, 2010

Dispute Resolution Officer