



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes FF, MND, MNR, MNSD, SS

Introduction

An extensive 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, the respondent however did not appear at the hearing to give any direct evidence or to be available to answer any questions.

All testimony was taken under affirmation.

Issues(s) to be Decided

The applicants are requesting a monetary order of \$16,000.00

Background and Evidence

The applicants testified that:

- When the respondent rented the property it was clean and in good repair.
- When the tenant vacated the rental unit, he left the unit in an extremely dirty and damaged condition and left in outstanding utility bill.
- They had to do extensive cleaning and repairs to the rental unit and have had extensive costs and losses.

The applicants are therefore claiming the following costs and lost revenue:

Total of invoices for repairs done	\$15,863.75
Total labour	\$7,000.00
April rent check bounced	\$1800.00
Lost rental revenue for 90 days needed for cleaning and repairs	\$5,400.00
Filing fees for Order of Possession	\$50.00
Filing fees for this Monetary application	\$100.00
Total	\$30,309.00

The applicants further stated that although the total amount of costs and losses is \$30,309.00, they are willing to settle for \$16,000.00 plus the security deposit.

Legal Counsel for the respondent argued that:

- It is their position that the landlord is attempting to take a windfall at the expense of the respondent.
- The applicants have failed to provide a signed copy of the move-in inspection report that is required under the Residential Tenancy Act.
- It is their position that a great many of the damages claimed by the landlords pre-existed this tenancy.
- They have provided witness letters which show that the carpets in the rental unit, which form a large portion of the claim, had a strong urine smell at the beginning in the tenancy and that the rental unit needed extensive cleaning.
- His client admits that some minor damage was caused during the tenancy however denies causing the extensive damage claimed by the landlords.

In response to the arguments from the respondent's legal counsel the applicants stated:

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- This rental unit was in good repair at the beginning of a tenancy and the carpets had been professionally cleaned.
- The extensive damages found at the end of the tenancy did not exist prior to this tenancy and there is no possible way they could have rented the unit out if it had been in this condition.
- They question the validity of the witness letters, as they all appear to have been written on the same typewriter, 2 of the signatures are illegible, and one of the witness signatures is spelled differently than the typed name on the letter.
- The claims that the rental unit was extensively damaged at the beginning of the tenancy are preposterous and the respondent has not even appeared at the hearing today to answer to the claims.
- This tenancy has cost them over \$30,000.00 in actual costs and lost revenue and they therefore believe that their claim for \$16,000.00 is very reasonable.

Legal counsel for the respondent stated in a final response:

- Again there is no proof that the damages did not pre-exist, as the applicants have failed to provide a move-in or move-out inspection report for comparison.
- The tenant should not have to pay any rent after April 17, as that is the date that the tenant vacated.

Analysis

It is my finding that the landlords have shown that the tenant caused extensive damage to the rental unit and left the unit in need of extensive cleaning and repairs.

Counsel for the respondent has argued that the applicants have not met the burden of proving that this damage was caused by the tenant, because they failed to provide any move in inspection report; however is my decision that the applicants have met the burden of proving "on the balance of probabilities" that this damage was caused by the respondent.



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The evidence provided by the applicants shows that this rental unit was filthy and in an extensive state of disrepair at the end of the tenancy, and I find it very improbable that the tenant would have rented this unit had it been so dirty and in such disrepair.

I too, find the witness letters to be questionable, because as stated by the landlords two of the signatures are illegible and one of the signatures does not match the typed name on the letter, and none of the witnesses was available at the hearing for cross-examination.

The respondent as well did not appear at the hearing to provide any direct evidence or to be available for cross-examination, and I find the landlords sworn testimony to be far more convincing.

I accept the applicant's claim that the actual costs and losses resulting from this tenancy exceed \$30,000.00 and I therefore find their request for \$16,000.00 plus the security deposit to be extremely reasonable and would more than account for any normal depreciation or wear and tear.

Conclusion

I order that the applicants may retain the full security deposit of \$900.00 and I have also issued an order for the respondent to pay a further \$16,000.00 to the applicants.

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: October 08, 2010.

Dispute Resolution Officer