



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution.

The Landlord filed a claim for damage to the rental unit, to keep all or part of the security deposit, and to recover the filing fee for the Application.

The Tenant filed a claim for compensation under the Act or tenancy agreement, for the return of the security deposit and to recover the filing fee for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the Landlord entitled to the monetary relief sought?

Is the Tenant entitled to the monetary relief sought?

Background and Evidence

This tenancy began in June of 2009, with the Tenant paying a security deposit to the Landlord of \$625.00. The rent was set at \$1,250.00 per month.

The Tenant gave the Landlord a Notice to End Tenancy, which was to be effective on August 31, 2010. The Tenant testified she vacated the rental unit on August 15, 2010. The Landlord filed his claim on September 8, 2010, within 15 days of the effective date of the end of the tenancy.

The Landlord did not perform incoming or outgoing condition inspection reports in accordance with the Act.

The Landlord claims the Tenant clogged the plumbing in the rental unit with feminine hygiene products. The Landlord hired a plumber to clear the plumbing and this cost \$280.00.

The Tenant denies clogging the drains. In the alternative, she argued that the type of feminine hygiene products she uses are labelled as being suitable for flushing down the toilet.

The Tenant claims against the Landlord for the return of the security deposit and for compensation for loss of quiet enjoyment of the rental unit.

As described above, the Tenant does not agree with the Landlord's deduction from the security deposit for plumbing repairs.

The Tenant claims she lost quiet enjoyment of the rental unit as the Landlord was attempting to sell the rental unit property. The Tenant testified that there were many showings of the rental unit to prospective purchasers and a few times where trades people needed to access the rental unit.

With the agreement of the Tenant, the Landlord's realtors would email her with at least 24 hours of notice for the showing.

The Tenant kept a record of the showings and access by trades people and it indicates 31 such events between April 30 and August 17, 2010. The Tenant has calculated that she spent 42 hours cleaning or being out of the rental unit during this time.

The Tenant testified she had two young children and often the showings were during the dinner time, her to have to tidy up the rental unit, then vacate with her children and go out for dinner. On other occasions the Tenant had to take the children out on the weekend and entertain them during the appointments.

The Landlord testified that approximately 50% of the time the realtors were showing the rental unit while the Tenant was at work. The Landlord testified that the Tenant did not submit the emails showing instances where she requested changes be made to the times for these appointments.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find as follows.

I dismiss the claim of the Landlord, as I find there is insufficient evidence to show the Tenant was the only female living at, or using the plumbing facilities at, the rental unit.

I dismiss the claim of the Tenant in regard to loss of quiet enjoyment of the rental unit.

Under the Act, the Tenant must maintain reasonable cleanliness throughout the rental unit and should not be compensated for having to tidy up for the real estate viewings.

Furthermore, I find the Landlord acted in a reasonable manner and had his realtors provide notice as required under the Act. I am not able to find the Tenant had an unreasonable loss of quiet enjoyment in these circumstances.

I allow the claim of the Tenant for the return of the security deposit and grant a monetary order in the amount of **\$650.00**, comprised of \$625.00 for the security deposit and \$25.00 for a portion of the filing fee for the Application, as the Tenant was partially successful.

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: January 12, 2011.

Residential Tenancy Branch