



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Despite having been served with the application for dispute resolution and notice of hearing by registered mail to her post office box on September 10, the tenant did not participate in the conference call hearing.

Issue to be Decided

Is the landlord entitled to a monetary order and if so, in what amount?

Background and Evidence

The landlord's undisputed evidence is as follows. The tenancy began on February 18, 2010 and ended on August 31, 2010. The tenant paid a \$297.50 security deposit. The tenant refused to participate in a condition inspection of the rental unit at the end of the tenancy.

The tenant failed to adequately clean the rental unit and the landlord's agent testified that she hired a professional who took approximately 13 hours to clean the unit. In addition to cleaning, the agent and cleaner had to remove garbage left behind by the tenant. The landlord provided photographs showing the condition of the rental unit at the end of the tenancy.

An addendum to the tenancy agreement which was signed by the tenant contains a schedule of fees for cleaning charges which itemizes minimum charges for items which are not cleaned. For instance, a stove left uncleaned will include a minimum charge of

\$50.00. At the top of this addendum is the statement “Actual time taken to clean is charged at \$25.00 per hr with a minimum of two hours” (reproduced as written). The landlord seeks to recover \$900.00 in cleaning and garbage removal costs in accordance with the prices listed on the cleaning fee schedule.

The landlord testified that the tenant failed to replace several light bulbs, failed to return a key, damaged 3 closet doors, left large screw holes in the walls which required repair, damaged a bathroom cabinet and damaged the towel bar in the bathroom. The landlord further testified that the tenant left writing on the closet doors which had to be primed and repainted to prevent the writing from bleeding through, the deck was damaged and had to be primed and repainted and a door stop and globe were broken and had to be replaced. The landlord seeks to recover \$553.00 as the cost of repairs and replacing missing items.

Analysis

I accept the landlord's undisputed testimony and find that the rental unit was not adequately cleaned at the end of the tenancy.

Section 6(3) of the Act provides that a term of the tenancy agreement is not enforceable if it is unconscionable. Section 3 of the Regulations states that a term is unconscionable if it is oppressive or grossly unfair to one party.

I find the addendum to the tenancy agreement to be unconscionable. While I find the agreement that cleaning will be charged at a rate of \$25.00 per hour to be reasonable, I find it utterly unreasonable and unfair that if a stove, for instance, is not completely cleaned and requires an additional 15 minutes of cleaning, the tenant will be required to pay \$50.00. In this case the landlord testified that approximately 13 hours were spent cleaning and 5 hours spent removing garbage. The landlord seeks a total of \$900.00 for cleaning based on the cleaning fee schedule which would result in an hourly rate of \$50.00 per hour. I find that the cleaning fee schedule is unenforceable.

I find that as the landlord testified that the cleaning time was 13 hours and the garbage removal time was 5 hours, it is reasonable to compensate the landlord at a rate of \$25.00 per hour and I award the landlord \$450.00 which represents 18 hours of work.

I find that the tenant caused the damage alleged by the landlord and I find the landlord's charges for the cost of repairing that damage and replacing missing items to be reasonable. I award the landlord \$553.00.

I find that the landlord is entitled to recover the \$50.00 paid to bring this application and I award her \$50.00.

Conclusion

The landlord is awarded a total of \$1,053.00. I order the landlord to retain the \$297.50 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for \$755.50. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Dated: January 13, 2011

Dispute Resolution Officer