



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. Both parties participated 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 parties agreed that the tenancy began on November 15, 2009 and ended on August 31, 2010. The parties further agreed that the tenancy was set for a fixed term which was set to expire on November 30, 2010 and that the tenant paid a \$400.00 security deposit.

At the end of the tenancy the parties conducted a condition inspection and produced a report in which the landlord indicated that the rental unit required cleaning. The tenant signed the report and indicated that he did not agree that the report fairly represented the condition of the unit because he "Dispute[d] previous tenant dying in hospital as per [the caretaker]".

The landlord testified that the tenant failed to adequately clean the rental unit, the carpet or the window coverings. The landlord provided an invoice showing that they paid \$50.00 for suite cleaning, \$50.00 to clean window coverings and \$72.80 to clean carpets.

The tenant testified that he had the rental unit cleaned by a third party and acknowledged that he did not have the carpet or window coverings professionally cleaned.

The parties agreed that the tenant ended the tenancy 3 months before the expiry of the fixed term. The tenancy agreement contains a liquidated damages provision which requires the tenant to pay \$600.00 in liquidated damages if he ends the tenancy early.

Analysis

The tenancy agreement contains terms whereby tenants are obligated to have carpets and window coverings professionally cleaned at the end of the tenancy. I find that the tenant failed to comply with those terms and that the landlord is entitled to recover the \$50.00 cost of cleaning window coverings and the \$72.80 cost of carpet cleaning.

The tenant focused most of his argument during the hearing on an allegation that the landlord had failed to advise him that a previous tenant had died in the rental unit. It was to this event that he referred when he signed the condition inspection report. When asked at the hearing whether he had cleaned the rental unit, his reply was that he “got someone else to do it.” The landlord’s agent who performed the cleaning gave specific testimony about the cleanliness of the unit and the condition inspection report is similarly specific. Given the specificity of the landlord’s claim regarding cleaning and the tenant’s non-specific, general denial as well as his comment on the condition inspection report that did not indicate that he disagreed with cleanliness but with a statement made by the landlord at the outset of the tenancy, I am persuaded to believe the landlord. I find that the rental unit was not adequately cleaned and I award the landlord \$50.00.

The tenancy agreement clearly states that the tenant is obligated to pay liquidated damages in the event he ends the tenancy prior to the end of the fixed term. I find that the liquidated damages provision was triggered when the tenant ended the tenancy and I find the landlord is entitled to liquidated damages. I award the landlord \$600.00.

I find that the landlord should recover the \$50.00 filing fee paid to bring this application and I award the landlord \$50.00.

Conclusion

The landlord has been awarded a total of \$822.80. I order the landlord to retain the \$400.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance of \$422.80. 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

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