



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing was convened by way of conference call to deal with the landlord's application for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlord to retain the security deposit in partial or full satisfaction of the claim; and to recover the filing fee from the tenants for the cost of this application.

The landlord attended the conference call hearing, gave affirmed testimony, and provided an evidence package in advance of the hearing. Despite each tenant being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail separately on September 17, 2010, the tenants did not attend the conference call hearing. All information and testimony provided by the landlord has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Is the landlord entitled to retain the security deposit in partial or full satisfaction of the claim?

Background and Evidence

This fixed term tenancy began on November 30, 2009 and ended on August 30, 2010 at the end of the fixed term. Rent in the amount of \$2,690.00 per month was payable in advance on the day before the 1st day of each month, as per the tenancy agreement, a copy of which was provided in advance of the hearing. There are no rental arrears. At the outset of the tenancy, the landlord collected a security deposit from the tenants in the amount of \$1,345.00.

The landlord testified that the rental unit is a fully restored 1920's house. At the outset of the tenancy, the tenants had verbally agreed to not wear shoes in the house to protect the hardwood, and to generally respect the house. The tenants, however, had several gatherings or parties in the house, and substantial damage was done to the hardwood floors, including water damage in the living room.

He further testified that he had given the tenants an area rug to put under the dining room table to prevent the hardwood from being scratched or otherwise damaged, however he discovered about 8 months into the tenancy that the tenants had put the rug outside. He stated that the tenants had told him that they feared it would get dirty if food spilled on it and it would be easier to clean food off a hardwood floor than a rug, so they put it outside about 3 weeks after the tenancy began. When the landlord discovered it, it was in the yard, wet and damaged beyond repair.

The landlord also testified that the tenants had washed floor mats in the washer which caused the pump to break, and it was not fixable. The landlord stated that the washer was about 5 years old when the tenants moved in, and he has other rental units, and had a washer in the garage to replace the broken one with. He provided a receipt for that washer in the amount of \$599.98 dated February 22, 2010, however he also testified that the one broken by the tenants was not new or as superior a model.

The landlord also claims general cleaning that he, his wife, and another helper had to complete in order to have the unit ready for new renters that had already been secured when the move-out condition inspection was completed. For that, the landlord claims 7 hours for each of his wife and the helper at \$15.00 per hour, or \$210.00.

The landlord testified that there was also substantial drywall damage and painting that had to be done. He provided an invoice in the amount of \$321.89 that he paid for that service.

Further, the landlord testified that the tenants had left garbage and debris behind, for which the landlord hired a Rubbish Removal company and provided an invoice in the amount of \$435.68.

A move-in/move-out condition inspection report was provided in advance of the hearing that has been signed by the parties at both move-in and move-out to substantiate the claims. The reports also show that the tenants were provided with 3 keys at the outset of the tenancy, but only returned one. The landlord testified that there was no cost associated to that, in that he was able to change the combination on the lock which prevents the old keys from being operable at all in the lock.

The tenants provided their forwarding address in writing on or about September 13, 2010 and the landlord filed for dispute resolution for an order permitting the landlord to retain the security deposit on September 15, 2010 due to the damages and cleaning that required attention before the unit could be re-rented.

Analysis

The *Residential Tenancy Act* states that:

37 (2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and
- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

In the circumstances, as evidenced by the condition inspection reports, I find that the tenants did not leave the unit reasonably clean, and therefore, the landlord's claim for cleaning the unit at a cost of \$210.00 is justified. I have reviewed the move-in/move-out condition inspection reports, which were signed by the tenants as being accepted of the condition of the unit, and I further find that the landlord has established a claim for \$435.68 for rubbish removal.

With respect to the landlord's claim in the amount of \$321.89 for drywall repair and painting, I note that the inspection reports show that the paint was peeling, imperfect or badly done in several areas of the house before the tenants move in. Therefore, the landlord's claim for painting and drywall repair cannot succeed.

With respect to the broken washer, I find that the landlord has established that the tenants are responsible for the replacement of that appliance however I do not accept that the tenants are responsible for replacing it with a new, superior model. In determining the value of that item, I refer to Residential Tenancy Policy Guideline #37 which sets out the useful life of items commonly found in rental units. That guideline states that the useful life of a washer is 15 years. Therefore, I find it reasonable to pro-rate a \$300.00 washer with 10 years life left in it to \$200.00 owing by the tenants.

I find that the landlord has established a total claim of \$845.68. The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above I order that the landlord retain \$895.68 from the security deposit currently held in trust in full satisfaction of the claim and I order that the landlord return \$449.32 to the tenants forthwith.

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 31, 2011.

Residential Tenancy Branch