



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order to retain a portion of the security deposit. Both parties participated in the conference call hearing.

At the hearing the tenant indicated that he wished to make a claim against the landlord. The tenant was advised that he must advance such a claim by filing an application for dispute resolution.

Although the landlord had originally applied for compensation for repair of a door moulding, he withdrew that claim at the hearing.

Issue to be Decided

Is the landlord entitled to retain a portion of the security deposit?

Background and Evidence

The parties agreed that the tenancy began on December 1, 2007 at which time a \$750.00 security deposit was paid and that it ended in June 30, 2010.

The landlord testified that the tenant failed to maintain the lawn in the back yard and that as a result, the landlord incurred a cost of \$403.20 to remove weeds and grasses which were approximately 3 feet high. The landlord provided a copy of the invoice for the landscaping. The tenant testified that the weeds in the back yard had been an issue for most of the tenancy and that the landlord did not seed the yard with grass, but allowed weeds to overtake it. The tenant stated that when he attempted to mow the lawn, the lawnmower caused rocks to fly about which could have damaged the home or fence. The tenant provided a photograph of the back yard showing that grasses and weeds were overgrown.

The parties agreed that the tenant did not shampoo the carpets at the end of the tenancy. The landlord provided an invoice showing that he paid \$140.00 to have the

carpets cleaned. The tenant testified that he did not clean them because they were not soiled or stained.

Analysis

It is clear that the area in the back yard had been overtaken by weeds. However, the tenant bore the obligation of maintaining the back yard. He was not required to plant grass seed or create a lawn that was not already there, but he had an obligation to control the growth of whatever plants were there. I find that the tenant failed to adequately maintain the back yard and that the landlord incurred cost as a result. The landlord paid \$403.20 to have the grasses and weeds cut by a professional landscaper and testified that the charge was for nothing more than reducing the height of the grasses and weeds. I find the charge to be excessive. While the tenant failed in his obligation to maintain the yard, the landlord had an obligation to mitigate his losses in a reasonable manner. Even if a very high hourly rate of \$75.00 per hour were applied, the \$360.00 charge before tax would represent almost 5 hours of work and I find it unlikely that it took 5 hours just to cut the weeds and grasses back. I find that \$200.00 will adequately compensate the landlord and I award him this sum.

Residential Tenancy Policy Guideline #1 provides that when a tenant has resided in a rental unit for at least one year, he should steam clean or shampoo the carpet. I find that the tenant should be held responsible for the cost of carpet cleaning and I award the landlord \$140.00.

As the landlord has been substantially successful in his application I find that he should recover the filing fee paid to bring the application and I award him \$50.00.

Conclusion

The landlord has been awarded a total of \$390.00. I order the landlord to retain \$390.00 from the \$750.00 security deposit and the \$12.23 in interest which has accrued to the date of this judgement and I order the landlord to return to the tenant the balance of \$372.23. I grant the tenant a monetary order under section 67 for \$372.23. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

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: February 22, 2011

Residential Tenancy Branch