

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This is a cross application by both parties. The Landlord has made an application for a monetary order for damage to the unit, site or property, to keep all or part of the pet damage deposit or security deposit and the recovery of the filing fee. The Tenant has applied for a monetary order for return of all or part of pet damage deposit or security deposit and the recovery of the filing fee.

Both parties attended the hearing and gave testimony.

At the beginning of the hearing the Tenant's application for the return of double the security deposit was addressed. The Tenant ended the tenancy on September 30, 2010. The Tenant could not specify as to when the forwarding address in writing was given to the Landlord. As the Landlord has provided a copy of the move-out condition inspection report that contains the Tenant's signature for the move-out portion as September 30, 2010 and the same in the security deposit statement section of the report, I am satisfied that this would be the date provided to the Landlord with the forwarding address in writing. The Landlord filed an application for dispute resolution on October 15, 2010. This falls within the allowed 15 day period for the Landlord to make a claim against the pet damage and security deposits. As such the Tenant's application is dismissed.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order for damage to the unit, site or property?

Background and Evidence

This tenancy began on October 1, 2009 on a fixed term until September 30, 2010. The tenancy ended on September 30, 2010. The signed tenancy agreement submitted displays a monthly rent of \$2,400.00 payable on the 1st of each month. A security deposit of \$1,200.00 and a pet damage deposit of \$1,200.00 was paid at the beginning of the tenancy.

Both parties attended the conference call hearing and have agreed that both have received the application for dispute resolution from the other. The Landlord confirms receiving the Tenant's evidence package, but the Tenant states that she has not received the Landlord's evidence package. The Landlord states that the amended application dated February 14, 2011 was sent with their evidence on February 14, 2011 by registered mail to both Tenants. The Landlord has provided a registered mail receipt number and stated that the notice was attempted served by Canada Post and notices left to pick up the documents, but were left unclaimed by the Tenants. The Tenant states that she did not pick up the package as she thought that the package was for her spouse and that she could not pick it up. The Landlord clarified that both Tenant's names were on the registered mail package.

The Landlord is making a claim for the cost of replacing hardwood floors that they claim were damaged by the Tenant. The Landlord has provided 3 photographs of damage to the floors. The photographs offer no substantial assistance in determining the extent of the claimed damage. The Landlord refers to the completed move-in and move-out condition inspection reports, the estimate invoice by TEC Floor Coverings Ltd. and an alternate Cedar Tree Hardwood Floors. The estimate by TEC notes that the condition of the engineered floor wood condition prohibits re-finishing the floors. The Landlord is claiming the lesser amount of the two estimates of \$6,892.29. The Tenant states that the floors were fine when they left the rental unit. The Landlord states that the Tenant tried to fix the floor damage himself and ended up damaging it further. The Landlord points out the security deposit section of the report stating that the Tenant signed this portion and agreed to forfeit the \$2,400.00 for both deposits to repair the floors, replace the missing light bulbs and other required cleaning of the rental unit. The completed portion of this statement indicates that, "I agree with the amounts noted above and authorize deduction of any Balance Due Landlord from my Security Deposit and/or Pet Damage Deposit. If the total owing to the Landlord exceeds my deposit(s), I agree to pay the Landlord the excess amount." The Landlord state that she is unsure of the age of the floor, but that it is atleast 10 years old. The Landlord has not replaced it due to the current Tenant who refuses to go through renovations while he is occupying the rental unit.

The Landlord is making a claim for \$680.00 by JB Services. This is the invoice submitted by the Landlord's handyman who performed repairs to the rental unit. It specifies the replacement of 5 locksets because the Tenant did not return 1 of the 2 sets of keys. The Landlord states that there are 5 exterior door entrances and that all 5 were re-keyed. The service also provided the replacement of light bulbs, drywall patching and painting of a utility room and the miscellaneous supplies required. The invoice indicates supplies of \$350.00 and labour of \$330.00. The Tenant admits to not

returning 1 set of the keys. The Tenant disputes the missing drywall in the utility room, but cannot explain why it was not noted on the condition inspection report on the move-in.

The Landlord is also making a claim for \$588.00 for general cleaning by Fresh and Clean Management Co., who provided 5 hours, 15 minutes @ 100.00 per hour (4 persons) = \$525.00 + 12% HST. The Tenant disputes this charge and states that she spent an entire day cleaning the rental unit before vacating it. The Landlord has not provided any supporting evidence for the cleaning, but relies on section 10 (a) of the rental agreement.

The Landlord is also seeking the replacement of a lawn mower that was kept in the garage for \$349.00. The Landlord has not replaced it, but has provided an on-line estimate as to the cost of a basic replacement. The Tenant states that they have never used this lawnmower and have never seen it. The Landlord only states that it was in the garage at the beginning of the tenancy and that it was missing at the end of the tenancy.

Analysis

Based upon the above facts, I find that both parties were properly served with the notice of hearing and evidence packages. Although the Tenant states that she has not claimed the evidence filed, I find that service was done properly and that based upon the direct evidence of the Landlord, that the evidence package consisted of items already known to the Tenant.

The Landlord's claim for the cost to replace the hardwood floors must be reflected by the Residential Tenancy Policy Guidelines in reference to the useful life of work done or things purchased. In this case hardwood floors have a normal life expectancy of 20 years. The Landlord states that the current floors are approximately 10 years old. Based upon the Landlord's estimate to replace the floors, I credit 50% of the replacement costs to the Tenant. I find that the Landlord has established a claim for \$3,446.15.

The Landlord's claim of \$680.00 for the repair and replacement of items in the rental unit have been established. I find that the receipt, condition inspection report and the direct evidence of the Landlord support this. The Tenant has not provided any evidence to support their dispute of this claim.

The Landlord's claims for \$588.00 for general cleaning and \$349.00 for an estimated cost of replacing a lawn mower have not been met. The Tenant has disputed these claims and the Landlord cannot provide any evidence to support the claim. The condition inspection report for the move-out shows no mention of any cleaning required. As such, I dismiss this portion of the Landlord's application.

The Landlord has established a claim for \$4,126.15 for the costs of damage to the rental unit. The Landlord is also entitled to recovery of the \$100.00 filing fee. I order that the Landlord retain the \$1,200.00 security deposit and the \$1,200.00 pet damage deposit to offset the established claim of the Landlord. I grant the Landlord an order under section 67 for the balance due of \$1,826.15. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted a monetary order for \$1,826.15.
The Landlord may retain the pet damage deposit and the security deposit.

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