



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes: MNSD, FF

Introduction

This Dispute Resolution hearing was set to deal with an Application by the landlord for a monetary order for cleaning and to keep the security deposit in partial satisfaction of the claim.

Despite being served by registered mail sent on November 8, 2010, the tenant did not appear.

Issue(s) to be Decided

The issues to be determined based on the testimony and the evidence is whether the landlord is entitled to monetary compensation under section 67 of the *Act* for rent owed and damages.

Background

The landlord testified that the tenancy began on November 16, 2009, rent was \$1,000.00 and a security deposit of \$500.00 was paid. The tenancy ended on October 31, 2010. A copy of the Move-in and Move-out Condition Inspection Report was in evidence along with photos and invoices. No copy of the tenancy agreement was in evidence.

The landlord testified that at the time the tenant left, the unit was left in an unsatisfactory condition. The landlord stated that a list of out-going cleaning requirements listing the standard charges is given to each tenant when Notice to vacate has been received by the landlord. No copy of this list was in evidence.

The landlord testified that there were some areas of the rental unit left not sufficiently clean and the landlord referred to photos of the stove and other areas of concern. The parties participated in a move-out inspection, a copy of which was in evidence and the tenant had signed the report. A notation above the tenant's signature states: "*SEE INSPECTION SUPPLEMENT REPORT FOR CURRENT CHARGES*". No copy of the supplement report was attached. However, the landlord testified that, in practice, the

landlord uses contract cleaners who charge a flat rate for each apartment clean-up job. The landlord submitted an invoice showing a unit price of \$125.00. No details were given to indicate what was cleaned, the cost per hour, nor the number of hours spent. However the landlord stated that, in addition to the stove, the cupboards were left not wiped, the bathtub was not thoroughly clean and there was dust on the door, window trim and behind the appliances. The landlord testified that after the outgoing inspection the tenant did not agree with the cleaning costs, but consented to the charges for carpet cleaning.

The landlord is seeking \$89.60 for the carpet cleaning and \$125.00 for the move-out clean-up.

Analysis:

With respect to an Applicant's right to claim damages from another party, Section 7 of the Act states that if a landlord or tenant does not comply with the Act, the regulations or the tenancy agreement, the non-complying party must compensate the other for damage or loss that results. Section 67 of the Act grants a dispute Resolution Officer the authority to determine the amount and to order payment under these circumstances.

It is important to note that in a claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof and the evidence furnished by the applicant must satisfy each component of the test below:

Test For Damage and Loss Claims

1. Proof that the damage or loss exists.
2. Proof that this damage or loss happened solely because of the actions or neglect of the Respondent in violation of the Act or agreement.
3. Verification of the actual amount required to compensate for the claimed loss or to rectify the damage.
4. Proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage.

In this instance, the burden of proof was on the landlord, to prove the existence of the damage/loss and that it stemmed directly from a violation of the agreement or a contravention of the Act on the part of the respondent.

I find that section 37(2) of the Act states that, when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean and undamaged, except for reasonable wear and tear. (my emphasis)

I find that the standard of cleanliness required under the Act is “reasonably clean” and this does not necessarily mean that it this would meet a landlord’s higher standards in thoroughly preparing a unit for a new tenant. I do accept the landlord’s testimony that there were portions of the rental unit that were not left reasonably clean. However, I find that the cleaning invoice was not sufficiently detailed to accurately determine what specific portion of the cleaning costs should be attributed solely to the tenant. I also find it unconscionable to impose a standard flat rate for cleaning the entire unit in situations where a significant portion of the rental unit may have been left reasonably clean.

Accordingly I find that the landlord is entitled to \$60.00 reimbursement for the cost of cleaning the portions of the rental unit that were not left reasonably clean, \$89.60 for the carpet cleaning and the \$50.00 cost of this application.

Conclusion

I order that the landlord retain \$199.60 from the tenant’s security deposit of \$500.00 in compensation for the above expenditures, leaving a balance of \$300.40 still owed to the tenant. I hereby issue a monetary order to the tenant for this amount. This order must be served on the landlord by the tenant in accordance with the Act and if necessary can be enforced through Small Claims Court.

The remainder of the landlord’s claim is dismissed without leave.

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: March, 2011.

Residential Tenancy Branch