



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by two agents for the landlord and the tenant. The tenant had two witnesses available but they did not provide any testimony.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for damage to the rental unit; for compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulation or tenancy agreement; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 67, and 72 of the *Act*.

Background and Evidence

The parties agree the tenancy began as a month to month tenancy in February 2010 for a monthly rent of \$800.00 due on the 1st of each month and that a security deposit of \$400.00 was paid. The parties did not agree on whether or not a pet security deposit was paid.

The parties agree the tenancy ended sometime in November 2010 after the landlord had issued a 1 Month Notice to End Tenancy for Cause.

The landlord testified the rental unit was left in a filthy condition with so much damage to the floor that the carpets had to be removed and the walls had to be repainted. The landlord testified that she had photographs of the damage; receipts for the repairs and a completed move in and move condition inspection report. None of these items was submitted into evidence.

The tenant contends the rental unit was not suitable for occupation as documented in her submitted evidence of a inspection report outlining the bathroom wall and floor was damaged; sink taps were loose; kitchen counters were damaged; the living room floor

had a soft spot requiring repair and the deck was rotten. The tenant also contests that a move in or a move out inspection was ever completed.

Analysis

To be successful in a claim for damages the party making the claim has the burden of proof to establish the following four points:

1. That a loss or damage exists;
2. That the loss or damage results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; and
4. Steps taken, if any to mitigate the damage or loss.

In the absence of any documentary or evidentiary support and in light of the dispute testimony, I find the landlord has failed to establish that a loss or damage exists or to establish any value of any damage or loss.

Conclusion

For the reasons above, I dismiss the landlord's Application in its entirety without leave to reapply. As a result, I find that the tenant is entitled to the return of the security deposit and I grant a monetary order in the amount of **\$400.00**.

This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) 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: April 05, 2011.

Residential Tenancy Branch