



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

DISPUTE CODES MNSD, MNDC, FF

INTRODUCTION

This hearing dealt with joint applications filed by both the tenant and the landlord. The tenant's application seeks:

1. Monetary order for return of pet damage or security deposit; and
2. Recovery of the filing fee paid for this application.

In total the tenant seeks \$550.00 plus the \$50.00 filing fee.

The landlord seeks:

1. A monetary Order for compensation for damage or loss; and
2. Recovery of the filing fee paid for this application.

Both parties appeared at the hearing of this matter, I therefore accept that both parties were properly deemed served with their respective Applications for Dispute Resolution hearing packages.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

BACKGROUND AND EVIDENCE

The tenant testified that she vacated the premises on November 15, 2010. The tenant testified that she provided her forwarding address to the landlord about a week later in the form of a note deposited into the landlord's mailbox. The tenant testified that she knows the landlord received the note because the landlord wrote to her at the forwarding address provided on November 24, 2010 however, to date the date the deposit has not been returned.

The landlord acknowledges receiving the tenant's forwarding address but says she cannot say when it was received. The landlord agreed she has not returned the deposit.

The landlord says the tenant's father broke a window which he tried to repair but did not do so successfully. Further the landlord is claiming the costs of dry-cleaning the curtains and shampooing the carpets. The landlord submitted an invoice from the window repair person indicating that the window will cost \$410.00 to repair. The landlord submitted a "verbal" quotation that there would also be a charge of \$30.00 for parts and HST.

The landlord seeks the following:

Window Repairs Invoice	\$410.00
Verbal estimate of material needed for window repairs	30.00
HST	52.88
Dry clean 3 sets of curtains	22.65
Dry cleaning HST	2.17
Clean Carpet – Sears	99.00
Carpet cleaning HST	11.88
Recover filing fee	50.00
Total Sought	\$678.58

No tenancy written agreement was supplied in evidence. The landlord did not supply receipts for dry cleaning or carpet cleaning.

The tenant says her family owns a carpet steam cleaning machine and she used this to clean the carpets herself.

FINDINGS

Section 38(1) of the Act requires a landlord, within 15 days of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address writing, to either return the deposit or file an Application for Dispute Resolution seeking an Order allowing the landlord to retain the deposit if the landlord believes there is cause. Because the landlord is not certain when she received the forwarding address I will rely on the evidence of the tenant that the landlord wrote to her on November 24, 2010 and I will find that the landlord received the forwarding address on that date.

If the landlord fails to comply with section 38(1), then the landlord may not make a claim against the deposit, and the landlord must pay the tenant double the amount of the deposit (section 38(6)). If the tenant does not supply his forwarding address in writing within a year, the landlord may retain the deposit.

I find that the landlord has not returned the security deposit within 15 days of receipt of the tenant's forwarding address. The tenant is therefore entitled to a monetary order in amounting to double the deposit with interest calculated on the original amount only.

Having been successful in this application, I find further that the tenant is entitled to recover the \$50.00 filing fee paid for this application.

However, the landlord has made a claim for damages to the rental unit. The tenant agrees that her father broke the window and I will accept the landlord's estimate of \$410.00 plus HST to make that repair.

With respect to the landlord's claims for carpet cleaning and drapery dry-cleaning receipts for these services have not been provided by the landlord. Further the landlord did not supply a tenancy agreement in writing in which the tenant agreed to dry-clean the draperies and I find that dry cleaning draperies to be above what is required of a tenant at move-out. Finally, with respect to carpet cleaning while a tenant is responsible for this task the tenant has said she did clean the carpets with her family's steam cleaning. The landlord has failed to prove that the tenant agreed to professional carpet cleaning and I am satisfied that the tenant has cleaned the carpets in an appropriate manner.

As the landlord has been only partially successful in her claim I decline to award the filing fee the landlord has paid for this application.

Total monetary award payable by the landlord to the tenant:

Security Deposit paid on 1 February 2010	\$275.00
Double Security Deposit	275.00
Interest on original amount paid from date security deposit paid to date of this order	0.00
Filing Fees	50.00
Less award to landlord for repairs to the window and HST	-459.20
Balance owing to tenant	\$140.80

The tenant is provided with an Order in the above terms and the landlord must be served with a copy of this Order as soon as possible. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

