



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord to keep all or part of the security deposit, money owed or compensation for damage or loss and recovery of the filing fee. Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

Matters related to this tenancy were heard under file 575347 on March 7, 2011. The Dispute Resolution Officer notes in the decision: *'The parties agreed that the tenants paid a \$325.00 security deposit and that they vacated the rental unit in the summer of 2010. The tenants acknowledged that they did not give the landlord their forwarding address in writing prior to making their claim.'*

The landlord testified that they were the new owners of the property and that the tenants had been given a 2 Month Notice to End Tenancy for Landlord's Use of Property. The landlord was to take possession of the residence on August 1, 2010 but when they arrived at the property at 2PM the tenants were still in the process of moving out. The landlord stated that the tenants asked for 2 more hours to move and clean but that when the landlord returned to the property at 5PM the tenants were gone.

The landlord said that the tenants did no cleaning and that it took 21 hours of work to get the house clean as the bathroom was dirty, the walls covered in grime and the stove was not cleaned. The landlord stated that in one of the rooms the smell of smoke was so bad that the carpet and the underlay had to be removed and the floor replaced. The landlord stated that they had also repainted this room in an attempt to get rid of the smell of smoke as it could not be used in the state it was left in by the tenants.

The tenant testified that during a walkthrough of the property at 2PM the landlord told the tenant to not worry about the garbage in the yard as he would be doing a dump run. The tenant stated that the landlord also told him to not worry about cleaning or the carpet as they still had to move all their belongings into the residence. The tenant stated that the previous landlord had agreed to them using one specific room for smoking as to avoid making the entire house smell of cigarette smoke.

The landlord in this application is \$507.00 compensation for the following:

- \$180.00 for replacement of the floor
- \$75.00 for paint
- \$252.00 for 21 hours of labour at \$12.00 per hour

A settlement was discussed whereby the landlord would accept the \$325.00 security deposit in full satisfaction of the claim however the tenant refused this offer. The tenant pointed out that neither move in nor move out condition inspections were completed by the landlord and referred to the previous hearing where he claims he was not allowed to provide his evidence.

The evidence the tenant refers to is for two registered mail tracking numbers from August and November 2010 which the tenant states were both used by the tenant to provide the landlord with his forwarding address in writing.

Analysis

Based on the documentary evidence and testimony I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds for entitlement to a monetary order for damages and cleaning costs.

The tenant does acknowledge that one of the rooms was specifically used as a smoking room and it is not unreasonable to determine that without excessive cleaning and replacement of the carpeting that the room would not still smell of cigarette smoke. However in the absence of move in and move out condition inspection reports I find that the landlord is entitled to the limited amount of \$275.00.

I find that the landlord has established a claim for \$275.00 in damages and cleaning costs.

The landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I find that the landlord has established a monetary claim for \$275.00 in damages and cleaning costs. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep the tenant's \$325.00 security deposit in full satisfaction of the claim.

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: July 5, 2011.

Residential Tenancy Branch