



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR MNSD MNDC FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in full satisfaction of the claim. Both the landlord and the tenant participated in the conference call hearing.

I have reviewed all evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began in December 2010. The tenant was one of several tenants in a shared house, and he shared a bedroom with a roommate. Rent in the amount of \$1000 was payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$500. The tenancy ended on April 30, 2011.

The landlord's evidence was as follows.

Shortly after the tenant moved out, the landlord found an iron-shaped burn on the carpet of his bedroom floor, as well as some wax melted into the carpet. Other tenants in the house told the landlord that the tenant often waxed his snowboard in his bedroom. The landlord therefore believed that the tenant caused the damage to the carpet. The landlord has not yet had any work done to repair or replace the carpet, but she provided an estimate for the cost of supplying and installing new carpet, which totalled \$1678.71. The landlord has claimed \$500, the amount of the tenant's security deposit.

The tenant's response was as follows.

The landlord did not do a move-in or move-out inspection or complete a condition inspection report, as required by the Act. The tenant denied damaging the carpet in the bedroom, and stated that he had only waxed his snowboard once in the living room. The tenant gave the landlord his written forwarding address on June 9, 2011.

Analysis

In considering the relevant evidence, I find as follows.

The landlord failed to provide sufficient evidence that the tenant caused the damage to the carpet. Furthermore, the landlord only provided one estimate, which may or may not have been reasonable. Nor did she provide evidence of the age of the carpet in order to calculate depreciation. Finally, the landlord had not yet completed the repair work, and therefore had not incurred any loss. I find that the landlord's monetary claim for compensation for damage to the carpet must fail.

When a landlord fails to properly complete a condition inspection report, the landlord's claim against the security deposit for damage to the property is extinguished. Because the landlord in this case did not carry out move-in or move-out inspections or complete condition inspection reports, she lost her right to claim the security deposit for damage to the property.

The landlord was therefore required to return the security deposit to the tenant within 15 days of the later of the two of the tenancy ending and having received the tenant's forwarding address in writing. The landlord received the tenant's forwarding address on June 9, 2011 but did not return the security deposit within 15 days of that date.

Because the landlord's right to claim against the security deposit for damage to the property was extinguished, and she failed to return the tenant's security deposit within 15 days of having received his forwarding address, section 38 of the Act requires that the landlord pay the tenant double the amount of the deposit.

As the landlord's claim was not successful, she is not entitled to recovery of the \$50 filing fee for the cost of her application.

Conclusion

The application of the landlord is dismissed.

I grant the tenant an order under section 67 for the balance due of \$1000. This order may be filed in the Small Claims Court 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: September 21, 2011.

Residential Tenancy Branch