

DECISION

Dispute Codes MND, MNR, MNDC, MNSD, FF

Introduction

There are applications filed by both parties. The Landlord has applied for a monetary order for damage to the unit, for unpaid rent, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and recovery of the filing fee. The Tenant has applied for the return of double the security and pet damage deposit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order for the return of double the security and pet damage deposit?

Is the Landlord entitled to a monetary order for damage to the unit, unpaid rent and loss of rental income?

Background and Evidence

Both parties agree that this Tenancy began on April 1, 2010 on a month to month basis as shown in the signed tenancy agreement. The monthly rent at the end of the Tenancy was \$910.00 payable on the 1st and 15th of each month of \$455.00 each. A security deposit of \$445.00 and a pet damage deposit of \$255.00 was paid on March 27, 2010. Both parties agree that the Tenancy ended on May 31, 2011 and that the Tenant gave the Landlord notice to vacate the rental unit on April 12, 2011 with a move-out date of May 14, 2011, but that the Tenant's were still in possession of the rental until May 31, 2011.

The Tenant is claiming \$1,400.00 for the return of double the \$455.00 security deposit and \$255.00 pet damage deposit, totalling \$700.00. The Tenant states that the Landlord withheld the security and pet damage deposits past the 15 days allowed after the end of the Tenancy and having provided the Landlord with their written forwarding address in writing. The Tenant, B.M., in her direct testimony stated that no forwarding address in writing was every given to the Landlord.

The Landlord is seeking a claim of \$455.00 in unpaid rent for the period of May 15- 31, 2011. Both parties confirmed that the Tenant was still in possession of the unit until May 31, 2011. The Tenant disputes this stating that a verbal agreement was in place to apply portions of the security and pet damage deposit to the unpaid rent. The Landlord disputes this stating no agreement was in place, especially as there were these amounts were being held in trust against the Landlord's damage claims.

The Landlord is claiming \$910.00 for loss of rental income because of the damage caused by the Tenant preventing him from re-renting the unit. The Landlord states that he obtained 3 estimates for the damages and the repairs required. The Landlord retained a contractor for the repairs with the lowest estimate on June 2, 2011. The Landlord relies on the contractor's assessment of the damage, photographs taken after the Tenancy and the incomplete condition inspection report that the Tenant signed and waived their right to the security and pet damage deposits. The Tenant refused to complete the report by signing off on the details of the damage recorded on the report. The Tenants dispute the report stating that they were, "bullied" into signing over the deposits.

The Landlord is claiming \$140.00 for repairs and painting of the floors consisting of 4 hours of labour at \$35.00 an hour. The Landlord states that the work was performed by the upstairs Tenant and himself. The Landlord has provided no invoices or receipts for any materials or details of the work performed. The Landlord relies on the incomplete condition report and the photographic evidence submitted. The Tenant, B.M. states that she agreed to the damages.

The Landlord is claiming \$100.00 for general cleaning of the rental unit for 4 hours at \$25.00 each hour. The Landlord stated that more hours were needed for the clean up, but that this was a conservative estimate for work performed.

The Landlord is claiming \$135.00 for damaged or missing items from the rental unit consisting of a blue recycling box for \$20.00, the permanent lock on an exterior door for \$60.00 that the Landlord claims is a leasehold improvement which was to remain with the house(the Tenant disputes this stating he was unaware of this), \$20.00 for a missing metal bathtub stopper that the Tenant concedes was taken in error at the end of the tenancy, \$25.00 for a broken fluorescent kitchen light fixture and \$10.00 for the replacement of 2 burned-out bulbs. The Tenant has not disputed these missing items. The Landlord states that none of these items have been replaced, so no invoices or receipts exist. The Landlord states that all of the above amounts are estimates based on viewing similar items at the store.

The Landlord is seeking compensation for \$1,763.00 for the replacement of the flooring based upon the invoice by Mikes Carpet and Flooring. The Landlord relies on the incomplete condition inspection report, photographs, the letter dated July 14, 2011 from the contractor describing the condition of the flooring and his assessment and recommendations. The Tenant has not disputed the evidence filed by the Landlord. The Landlord states that the flooring was new with the house and was at the time of this incident approximately 4 years old.

Analysis

Both parties have attended the hearing and have made detail reference to the evidence provided by both. I am satisfied based upon this that each has been properly served with the notice of hearing and evidence packages.

I find based upon the Tenant's own contradictory evidence testimony and the evidence provided by the Landlord that the Tenant's have failed in their application for the return of double the security and pet damage deposit. The Tenant's surrendered their right to the return of the deposits against damage to the rental. The Tenant's application is dismissed.

The Landlord's claim of lost rental income totalling \$910.00 has been established. The Landlord mitigated his losses as shown in the estimates for repair and the invoice for the completed work. The Landlord stated that he had the repairs and advertising of the rental done as soon as possible.

I find based on the evidence provided by both parties that the Landlord has established a claim for the unpaid rent of \$455.00 for the period May 15-31, 2011.

I find that the Landlord has established a claim for damage to the flooring in the unit based upon the undisputed testimony of the Landlord and the evidence provided from the contractor. Residential Tenancy Policy Guidelines state that the useful life expectancy on a carpeted floor is 10 years. As the Landlord has stated that the age of the carpet at time of the incident was 4 years. I award \$1,057.00 from the Landlords claim of \$1,763.00 (60%) for the replacement of the flooring in the unit.

I find based upon the evidence provided by both parties that the Landlord has established a claim for the remaining claims totalling, \$375.00. The Tenant has provided no dispute over these issues.

The Total claim established by the Landlord is \$2,797.80. The Landlord's claim is offset by the security and pet damage deposits held in trust totalling, \$700.00. The Landlord is entitled to the recovery of the \$50.00 filing fee. The Landlord is granted a monetary order under section 67 for the balance due of \$2,147.80. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Tenant's application for return of double the security and pet damage deposits is dismissed.

The Landlord is granted a monetary order for \$2147.80.

The Landlord may retain the security and pet damage deposits.

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 16, 2011.

Residential Tenancy Branch