

DECISION

Dispute Codes FF, MND, MNSD

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background, Evidence

The landlord's testimony is as follows. The tenancy began on May 1, 2010 and ended on May 31, 2011. The tenants were obligated to pay \$750.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$375.00 security deposit.

The landlord testified that a move in and move out condition inspection was conducted. The landlord was seeking a monetary order as compensation for damage he claims the tenants made.

The tenant's testified that no "walk through" was ever done and that they had not ever participated in a move out nor move in condition inspection. The tenants deny that they caused any damage.

Analysis

Section 35(3) of the Act states: "The landlord must complete a condition report in accordance with the regulations."

The landlord submitted a condition inspection report for this hearing, however the report that was submitted was unsigned and I therefore cannot rely on this, as well the tenants both dispute that a condition inspection was ever done. As for the damage to the unit as claimed by the landlord, the tenant did not agree with any of the landlords claims.

Based on the evidence supplied by the landlord I am not satisfied that a condition inspection was ever conducted. As for the damage claimed by the landlord, I am not satisfied with evidence as presented in this hearing. The landlord referred to many costs

incurred however the documentation as provided by the landlord was unclear and not helpful.

As explained to the parties at the outset of the hearing the onus or burden of proof is on the party making the claim, in this case the landlord. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

Conclusion

The landlords' application is dismissed.

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