



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR MNSD MNDC FF

Introduction

This hearing dealt with applications by the landlord and the tenant. The landlord applied for monetary compensation and an order to retain the security deposit in partial compensation of their monetary claim. The tenant applied for recovery of the security deposit and further monetary compensation. The tenant and both landlords participated in the teleconference hearing on September 23, 2011 and October 25, 2011.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Is the tenant entitled to monetary compensation as claimed?

Is the tenant entitled to double recovery of the security deposit?

Background and Evidence

The tenancy began on December 20, 2009, with rent in the amount of \$1475 due in advance on the first day of each month. The landlord received from the tenant a security deposit of \$750 on December 8, 2009 and a pet deposit of \$385 on December 20, 2009. The landlord and tenant carried out a move-in inspection on December 20, 2009.

On May 7, 2011 the landlord served the tenant with a notice to end tenancy for unpaid utilities. On May 16, 2011 the landlord applied for an order of possession through the Direct Request process, and served the tenant with the Notice of Direct Request Proceeding. On June 2, 2011 the landlord received the decision dismissing his Direct Request application. On June 6, 2011 the landlord and tenant conducted the move-out inspection and the tenant gave the landlord her written forwarding address. The landlord made his application for this hearing on June 21, 2011.

Landlord's Application – Evidence of Landlord

The landlord claimed \$111.28 for unpaid utilities, and the tenant agreed that she owed that amount.

The landlord also claimed \$50.04 for lock replacement because at the end of the tenancy the tenant only returned two keys, which had been re-cut, not the originals. There were still outstanding keys, so the landlord replaced the front door locks. The tenant stated that she told the landlord she did not know where the other keys were, and the landlord may be entitled to the cost for replacing the lock.

The tenant disputed the remainder of the landlord's claim.

The landlord claimed as follows:

- 1) \$1475 for unpaid rent for June 2011 – the tenant did not give written notice to vacate. The tenant told the landlord that she was going to move out by May 17, 2011, and the landlord began advertising to re-rent the unit. The landlord attempted to arrange move-out inspections, but the tenant did not cooperate and attend the move-out inspection until June 6, 2011. The landlord was not able to re-rent the unit until July 1, 2011 because it was uncertain when the tenant would be moving out.
- 2) \$194.82 for carpet cleaning – the tenant did not professionally clean the carpets, and there was a strong pet urine smell at move-out.
- 3) \$555 for carpet replacement in the rec room – after the carpet in the rec room had been professionally cleaned, there was still a strong mildew smell, and there were paint stains on the carpet. The landlord estimated that the carpet in the rec room was 10 to 12 years old.
- 4) \$77.72 for vinyl blinds and light bulbs – the blinds in two bedrooms had parts cut out of them and needed to be replaced. The blinds were approximately two years old. Some light bulbs were burned out.
- 5) \$337.12 for garbage removal – the tenant left garbage behind when she moved out.
- 6) \$40.77 for touch-up paint – some areas of the interior walls had to be sanded down and repainted.
- 7) \$1407.98 estimated cost for hardwood floor refinishing – the tenant damaged the hardwood floors in the dining room and main bedroom. The house was built in 1969 and the landlord believed that the floors are original. The floors were under carpeting until 2000. The landlord has not yet done the work to refinish the flooring.

Landlord's Application – Tenant's Response

- 1) Unpaid rent for June 2011 – the landlord harassed the tenant to move out, and the tenant thought she did not have any choice but to move out. On May 14, 2011 the tenant told the landlord that she would be out by the end of May. The tenant move out on May 31, 2011 and went back on June 1, 2011 to pick up some items. The tenant could not be there for the proposed move-out times. The tenant did not receive notice until June 2, 2011 that the landlord's application for an order of possession had been dismissed.
- 2) Carpet cleaning – the tenant shampooed the carpets, but she did not have enough time because she believed she had to be out by the end of May. The dogs did not pee all over the house.
- 3) Carpet replacement in the rec room – the carpet was 10 to 12 years old, and the landlord should not be entitled to this amount.
- 4) Vinyl blinds – the blinds just broke, from normal wear and tear. All of the lights were working when the tenant left.
- 5) Garbage removal – the tenant acknowledged that she did not remove all the garbage, because she did not have time to do so. Based on the landlord's photo of the garbage, the tenant thought the amount claimed for garbage removal was excessive.
- 6) Touch-up paint – the tenant used some of the landlord's leftover paint to touch up, but the paint on the walls had seasoned, and it no longer matched.
- 7) Hardwood floor refinishing – the tenant acknowledged that she stained a table in the dining room, and the stain leaked down the table legs in four spots. The tenant tried to sand it down, but did not do a good job. The floors had 11 years of wear and tear, and the landlord has not taken depreciation into account. The tenant questioned the amount claimed in the quote.

Tenant's Application – Evidence of Tenant

The tenant was late with rent a couple of times, and the landlord accused the tenant of lying and constantly harassed her. The tenant stated that the landlord repeatedly harassed her during the tenancy. The tenant had the hydro for the entire house put in her name, and the landlord was responsible for 25 percent of the hydro costs. The landlord would not pay his portion of the hydro unless he saw the bills, so the tenant got into arrears with hydro. Then the landlord would constantly serve the tenant with notices for unpaid hydro. The tenant thought she had no choice but to move out, even though the landlord did not have an order of possession. The tenant claimed \$2680 in personal damages for harassment by the landlord.

In regard to the pet and security deposits, there is no evidence that there was any damage done by pets, and the landlord is charging the tenant for damages she did not do. There was some damage or wear and tear to the house that the tenant would have repaired on her own if she had had more time to do so. The landlord did not give the tenant a copy of the move-out inspection report until June 20, 2011.

Tenant's Application – Landlord's Response

The landlord stated that in no way did he harass the tenant. The landlord is entitled to serve notices to end tenancy for unpaid rent when the tenant fails to pay rent. The tenant was aware at the outset of the tenancy that she was to provide the landlord with copies of the hydro bills and then the landlord would pay them within 14 days. However, the tenant several times failed to provide the bills, and the landlord had to ask for them.

The tenant is claiming that she did not do a lot of the damages that the landlord is claiming, but as demonstrated by the condition inspection reports, the damage at the end of the tenancy was not present at the beginning of the tenancy. There was pet damage to the carpets, which all had quite a strong urine smell.

Analysis

Landlord's Application

The landlord is entitled to the undisputed amounts of \$111.28 for unpaid utilities and \$50.04 for changing the front door lock.

In regard to the remainder of the landlord's application, I find as follows:

- 1) \$1475 for unpaid rent for June 2011 – the landlord is entitled to this amount. The tenant chose to act on the notice to end tenancy for unpaid utilities rather than apply to dispute the notice or wait until the landlord had served her with an order of possession. The tenant did not fully vacate the unit and remove her belongings until at least June 1, 2011, and she acknowledged leaving behind some garbage and failing to fully clean the unit even by the move-out inspection date of June 6, 2011. The landlord would not reasonably have been able to rent the unit for June 1, 2011 for these reasons.
- 2) \$194.82 for carpet cleaning – the landlord is entitled to this amount. The tenant acknowledged that she did not have the carpets professionally cleaned.

- 3) \$555 for carpet replacement in the rec room – the landlord is not entitled to this amount. According to the Residential Tenancy policy guidelines, the average life of carpet is 10 years. The carpet would have held no value after 10 years.
- 4) \$77.72 for vinyl blinds and light bulbs – the landlord is not entitled to this amount. The move-out inspection report does not indicate that the blinds were damaged or that there were any burned-out light bulbs. Further, the landlord's photograph of the blinds is inconclusive, as the missing sections do not appear to have been cut out but merely broken, and the landlord has not accounted for depreciation.
- 5) \$337.12 for garbage removal – the landlord is entitled to this amount. The tenant acknowledged that she left items behind. The landlord's photos clearly show large items of furniture included in the items that were left behind, and I accept the hauling costs as reasonable.
- 6) \$40.77 for touch-up paint – the landlord is not entitled to this amount, as he did not provide sufficient evidence to support this portion of his claim.
- 7) \$1407.98 estimated cost for hardwood floor refinishing – the landlord is not entitled to this amount, as he only provided one estimate, and he did not incur any actual cost or take into account depreciation.

Tenant's application

The tenant did not provide sufficient evidence to support her claim for personal damages. If the tenant had problems with the landlord during the tenancy, she could have applied for dispute resolution to address those issues. I do not find that the landlord harassed the tenant by serving her with notices to end tenancy for unpaid rent.

The tenant is not entitled to double recovery of her pet and security deposits. The landlord gave the tenant a copy of the move-out inspection report and made his application for the deposits within the required time. Further, a portion of the landlord's claim was for damage caused by pets, and the landlord was therefore entitled to claim against the pet deposit.

As the landlord's application was mostly successful, he is entitled to recovery of his filing fee. As the tenant's application was not successful, she is not entitled to recovery of her filing fee.

Conclusion

The tenant's application is dismissed.

The portions of the landlord's application to which he is not entitled are dismissed.

The landlord is entitled to \$2218.26. I order that the landlord retain the pet and security deposits of \$1135 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1083.26. 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: November 10, 2011.

Residential Tenancy Branch