



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes MND, MNDC, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a monetary order for damage to the rental unit, for money owed or compensation under the Act and the tenancy agreement, to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issue(s) to be Decided

Is the Landlord entitled to monetary compensation from the Tenants for re-keying the locks and for repairs to the refrigerator door?

Background and Evidence

This tenancy began under a written tenancy agreement on October 1, 2010. The monthly rent was \$2,080.00 and the Tenants paid a security deposit of \$1,040.00 on September 9, 2010.

The Landlord testified and submitted that the tenancy ended due to a one month Notice to End Tenancy for caused issued to the Tenant.

The Tenants vacated the rental unit on June 30, 2011. At the end of the tenancy the Landlord and Tenants performed a move out condition inspection report. In the report the Tenants agreed to the Landlord deducting \$614.00 from the security deposit for repairs to, and cleaning of, the rental unit.

The Landlord testified and submitted evidence that the actual costs of cleaning and repairing the rental unit was more than \$614.00.

The Landlord explained the cost of shampooing the carpets was actually \$56.00 more, the cleaning of the rental unit was \$28.00 more, and it cost \$40.00 to repair cigarette burns in a carpet. The Tenants agreed to these "overage costs". Therefore, the Tenants have agreed the Landlord may deduct the amount of \$738.00 from the security deposit.

The Landlord is also requesting the cost of repairing a refrigerator door in the amount of \$106.40, and for re-keying the locks due to a lost key \$114.24.

The Tenants did not agree to the cost of repairing the refrigerator door or for re-keying the locks.

The Landlord testified that the locks and keys at the rental unit had been changed for these particular Tenants. The Tenants were supplied with three sets of keys. At the end of the tenancy the Tenants only returned two sets of keys. The Landlord testified that because of this he had to rekey two of the locks and have additional keys made.

The Landlord also testified that during the tenancy he replaced a refrigerator at the rental unit, on or about November 30, 2010. He testified that at the end of the tenancy, the fridge door had a scrape on it. The Landlord testified he was unable to replace the door, but had the door refinished.

In reply to the Landlord's claims, the Tenants argued the Landlord is simply trying to "squeeze every penny out of them".

The Tenants argued that because one key was lost, the Landlord is charging them to do all the keys again. The Tenants argued that the lost keys were unidentified and posed no risk to the Landlord.

The Tenants also argued that the refrigerator door was scrapped because the bathroom door scraped against it. According to their testimony, the fridge that the Landlord put in the rental unit to replace the first fridge, had a door that opened on the opposite side. They testified that every time the door opened it scrapped against the bathroom door.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find that the Tenants have breached section 37 of the Act by failing to return to the Landlord all the keys to the rental unit. I order the Tenants to pay the Landlord for this loss in the amount of \$114.24.

On the issue of the damage to the fridge door, I find the Landlord has failed to prove that the Tenants should pay for this. I find that the Landlord installed a fridge which had a door which was incompatible with the bathroom door, and therefore, the scrape was bound to occur due to normal wear and tear in the rental unit. There was no evidence the Tenants were negligent or intentionally scrapped the door. Therefore, I dismiss this portion of the Landlord's claims.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find the breaches by the Tenants have caused the Landlord to suffer a loss.

I find that the Landlord has established a total monetary claim of **\$902.24** comprised of \$738.00 as the amount the Tenants agreed to, \$114.24 for the locks and keys, and the \$50.00 fee paid for this application.

I order that the Landlord may retain \$902.24 from the deposit of **\$1,040.00** in full satisfaction of the claim and I order the Landlord, under section 67, to return to the Tenants the balance due of **\$137.76**. Pursuant to the policy guidelines, I grant and issue the Tenants a monetary order for the balance due. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

This decision is final and binding on the parties, except as otherwise provided under the Act and 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: October 27, 2011.

Residential Tenancy Branch