



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MNR MNSD MNDC

Introduction

This hearing dealt with an application for a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The landlord also requested recovery of the filing fee for this application. Although served with the Application for Dispute Resolution and Notice of Hearing sent by registered mail on August 11, 2011 the tenant did not appear.

Issue(s) to be Decided

Is the landlord entitled to the requested orders?

Background and Evidence

This tenancy began on July 8, 2011 and was supposed to be for a fixed term of one year. The rent was set at \$1,400.00 per month although the tenant paid a prorated amount of rent for July in the amount of \$1,080.00. A security deposit of \$700.00 was paid by the tenant.

The tenant never actually moved into the rental unit but rather the tenant's boyfriend phoned the landlord on the August 1st long weekend to tell her that the rental unit was not clean enough and that there were a few other things with which he was not satisfied. The landlord then went to some effort to attend to the tenant's requests (including purchasing a brand new stove and installing new floor covering) and then received a letter from the tenant on August 9th saying that she was not going to move in after all.

The landlord was able to find a new tenant for September 1, 2011.

The tenant did not submit any evidence.

Analysis

The landlord has made a monetary claim comprised of the following:

Unpaid rent for August	\$1,400.00
New Stove	\$823.19
New Carpet	\$873.63
Cleaning	\$340.48
TOTAL	\$3,437.30

Having heard the testimony of Ms. Sheppard and reviewed the documentary evidence she submitted, I am satisfied that the landlord has established a monetary claim of \$1,400.00 for the August rent.

I am not satisfied however that the landlord is entitled to recoup the other expenses listed above for the following reason. When making a monetary claim, the claimant must not only prove that the respondent is liable for the loss or damage but also the amount of the loss. In the present case, it cannot be said that the tenant is liable for any "loss" other than the August rent. While the tenant complained about the condition of the unit, the landlord was not obliged to make the expenditures listed. Rather, the landlord in this case acted of her own volition in making these expenditures mostly in her desire to make the tenant happy. The landlord claims that she would not have made these changes if she had just been renting to students but she felt that she wanted to make these changes for Ms. Lehman.

I commend the landlord's high standards and the efforts she went to for this tenant but I am unable to place the responsibility for these expenses on the tenant.

Conclusion

I find that the landlord has established a total monetary claim of \$1,450.00 comprised of \$1,400.00 in unpaid rent for August and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the deposit and interest of \$700.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$750.00. 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*.