



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MND, MNSD, MNR, FF.*

Introduction.

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for a monetary order for the cost of repairs and the filing fee and to retain a part of the security deposit in satisfaction of his claim. The tenant applied for the return of his security deposit. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to a monetary order to recover the cost of repairs and the filing fee? Is the tenant entitled to the return of his security deposit?

Background and Evidence

The tenancy started on February 01, 2010 and ended on September 01, 2011. The rent was \$700.00 due on the first day of each month. Prior to moving in the tenant paid a security deposit of \$350.00 and a pet deposit of \$350.00. The rental unit is located on the upper floor of a two level home. At the start of the tenancy, the tenants in the basement had moved out.

The landlord stated that sometime during the tenancy, he moved into the basement. While doing some work in the home, the landlord noticed that there was a leak in the ceiling of the basement that was directly under the bath tub in the upstairs bathroom. The repair person visited the upstairs bathroom and noticed that the tub surround had detached in two areas and that water was leaking to the floor below. After fixing the problem, the leak stopped. The landlord testified that the female tenant had indicated to the repair person that the “*surround was hanging off the tub*”.

The tenant stated that right from the start of the tenancy there was water pooling near the toilet and the landlord dismissed it as condensation from the toilet tank. The tenant stated that this was never fixed and he believed that it was the cause of the leak below. The tenant did agree that the tub surround had “*bubbled*” in two areas and that she did not report this to the landlord. The tenant denied having told the repair person that the surround was hanging off the tub.

The tenant agreed he had caused damage to the microwave oven, had made holes in the wall to hang pictures and that there was some damage to a wall, done by the pet rabbit. The tenant agreed to pay \$100.00 towards this damage.

The landlord had initially asked the tenant if he could retain \$350.00 towards the repair of the leak. The tenant did not agree. The landlord applied to retain the full deposit towards damage, but was still willing to accept \$350.00 to repair the damage caused by the leak.

Analysis

Based on the testimony of both parties, I find that that the leak started sometime during the tenancy and was only discovered by the landlord when he moved into the basement. The tenant agreed that the tub surround had “bubbled” in two places, but did not inform the landlord about the problem. Therefore this resulted in water leaking through to the bottom floor. I find that had the landlord been informed and had not taken steps to correct the problem, then he would be responsible for the cost of repairs. In this case, the tenant did not notify the landlord and the problem escalated resulting in damage that entailed repairs in the amount of \$350.00. The landlord filed a receipt for this amount. Therefore I find that the tenant is responsible for the cost of repairs.

Even though the tenant agreed to pay \$100.00 for repairs for other damage, the landlord indicated that he would be satisfied with being able to retain \$350.00 to repair the leak. Therefore I award the landlord \$350.00 towards his claim. Since the landlord has proven his claim, he is also entitled to the recovery of the filing fee of \$50.00.

I order that the landlord retain \$400.00 from the security and pet deposits of \$700.00 and I grant the tenant an order under section 67 of the *Residential Tenancy Act* for the balance due of \$300.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of **\$300.00**.

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: December 21, 2011.

Residential Tenancy Branch