



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR MNSD FF

Introduction

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. An agent for the landlord and both tenants participated in the conference call hearing.

The landlord did not submit a copy of the current tenancy agreement in their evidence. I allowed the landlord to fax me a copy of the tenancy agreement after the hearing was concluded. I received from the landlord what appears to be the first page of the current tenancy agreement. The page is reduced to half a page in size, and is not fully legible. The one page of the agreement faxed by the landlord does not show the signatures of the landlord and tenants. As this one page is not legible and does not show the signatures of the tenants, I decline to accept this page as evidence.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenants moved into the rental unit on June 15, 2004. On May 28, 2004, the landlord collected a security deposit from the tenant in the amount of \$787.50. The landlord and tenants carried out a move-in inspection and completed a condition inspection report on June 10, 2004.

The evidence suggests that the landlord and the tenants would enter into a new fixed-term tenancy agreement each year. The landlord and the tenants agreed that the current tenancy began July 1, 2011, with monthly rent in the amount of \$1873 payable in advance on the first day of each month. The tenants moved out of the rental unit on September 16 or 17, 2011. No move-out inspection was done.

The landlord has claimed the following monetary amounts:

- 1) \$51.64 for an unpaid water bill;
- 2) \$459.20 for hauling garbage that the tenants left behind;
- 3) \$500 liquidated damages, as the tenants moved out before the end of the fixed term lease;
- 4) \$549.92 for carpet cleaning – the rental unit is a large home, and the carpets were really dirty;
- 5) \$524.16 for cleaning – the tenants failed to clean the unit when they moved out. The landlord provided notes regarding the specific cleaning done, as well as photographs of the dirty condition of the unit, and the invoice for cleaning;
- 6) \$3025.72 for painting – the tenants were given funds to do painting during the tenancy, but the landlord did not know when that painting was done. The ceilings had to be painted, as the tenants painted yellow rings on one ceiling and clouds on one wall;
- 7) \$499.47 in unpaid rent for September 15 – 23, 2011 – the tenants did not move out until September 17, 2011, and then the landlord had to do cleaning, so the new tenants could not move in until September 23, 2011.

The tenants acknowledged the amounts claimed for the unpaid water bill and the hauling charges. The tenants' response to the remaining items was as follows:

- 3) \$500 liquidated damages – the tenants thought that the landlord said there would be no broken lease fee if the landlord got new tenants for the second half of the month. The tenants thought it was either the rent or the liquidated damages fee.
- 4) \$549.92 for carpet cleaning – the carpets were in really bad shape in 2004. The tenants asked the landlord to replace the carpets during the tenancy but the landlord did not do so. The tenants thought the landlord was going to replace the carpets at the end of the tenancy. The carpets were about 20 years old.
- 5) \$524.16 for cleaning – the tenants thought the landlord's claim for cleaning was excessive. The tenants did the best they could. The only thing they did not do was clean the oven.
- 6) \$3025.72 for painting – the landlord gave the tenants paint and tools, and the tenants did painting in 2004 and 2005. The tenants acknowledged that they painted one room yellow and blue.
- 7) \$499.47 in unpaid rent for September 15 – 23, 2011 – the tenants paid \$998.92 for September 1 to 16, 2011. The tenants moved out on September 16, 2011.

Analysis

The landlord is entitled to the amounts acknowledged by the tenants for the water bill and the hauling charges.

The landlord is not entitled to the amount claimed for liquidated damages. The landlord did not provide a complete, legible copy of the tenancy agreement, and I therefore cannot interpret or determine the validity of the liquidated damages clause.

The landlord is not entitled to the amount claimed for carpet cleaning. Tenants are generally only required to professionally clean carpets after a tenancy of one year. The parties agreed that the last tenancy began on July 1, 2011, and the tenancy ended less than three months later.

The landlord is not entitled to the amount claimed for cleaning. The landlord did not provide sufficient evidence of what items required cleaning or were cleaned.

The landlord is not entitled to the amount claimed for painting. The landlord could not verify the age of the paint. The average life of paint, as set out in the Residential Tenancy Policy Guidelines, is four years. The landlord did not provide a detailed invoice regarding the breakdown of costs for painting the ceilings, or the room that the tenants painted in yellow and blue.

The landlord is entitled to part of their claim for lost revenue for September 15 to 23, 2011. I accept the evidence of the tenants that they paid \$998.92 for September 2011; at the rental rate of \$1873 per month, the amount of \$998.92 would represent rent for September 1 through 16, 2011. The landlord's evidence shows that the hauling was done on September 20, 2011, and carpets were cleaned on September 21, 2011. The cleaning invoice does not indicate the date(s) of cleaning, and the painting invoice is dated September 30, 2011. The landlord did not provide sufficient evidence of the date the new tenants moved in. However, the tenants acknowledged that they left items behind to be hauled away, and they did not do all of the cleaning; I therefore find it reasonable to grant the landlord loss of revenue for September 17 through 21, 2011, in the amount of \$312.17.

As the landlord's claim was only partially successful, I find they are not entitled to recovery of the filing fee for the cost of their application.

Conclusion

The landlord is entitled to \$823.01. The remainder of the landlord's claim is dismissed.

The amount of the security deposit and interest is \$815.40. I order that the landlord retain the security deposit and interest in full satisfaction of their claim. I decline to grant the tenants a monetary order for the nominal balance of \$7.61.

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 9, 2011.

Residential Tenancy Branch