



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The landlord's application is a request to keep \$311.58 of the tenants security deposit, and a request for recovery of the \$50.00 filing fee.

The tenant's application is a request for a monetary order for \$3000.00 and a request for recovery of the filing fee.

Landlord's application

Background and Evidence

The landlords testified that:

- When the tenants vacated the rental unit they left the carpets very dirty and stained and as a result they had to be professionally cleaned.
- The tenants did some cleaning before they vacated however the rental unit was still very dirty and as a result had to be cleaned properly.
- The tenants also failed to return a laundry card, and it costs \$10.00 to replace that card.
- The tenants were to vacate by the 15th of October 2011, however they did not return the keys until the 18th of October 2011. They are not going to charge than to the 18th, however they would like rent until the 16th.

The applicants are therefore requesting an order as follows:

Professional carpet cleaning	\$179.20
General cleaning labour	\$96.00
General cleaning materials	\$12.20
Replace laundry card	\$10.00
Rent owed for October 2011	\$48.38
Filing fee	\$50.00
Total	\$395.78

The applicants therefore request an order allowing them to keep \$311.58 of the security deposit towards the claim, and requested a monetary order be issued for the difference.

The tenants testified that:

- They did some cleaning of the carpets when they vacated however they admit there were still some stains in the carpets but they believe this is normal wear and tear for a three-year tenancy.
- They do not believe the landlord should be charging them anything further for cleaning as they spent six hours cleaning the rental unit and left it clean.
- They do not dispute the claim for the laundry card, as they were not aware it was supposed to be returned.
- They do dispute the claim for rent for October 2011, as they paid 1/2 a month's rent and vacated on the 15th of October 2011. The reason the keys were not returned until the 18th was because that is the date the landlord arranged to do the move out inspection not because the keys are not available to be returned.

Analysis

Carpet cleaning

It is my decision that I will allow the landlords claim for carpet cleaning because although the tenants believe some staining is normal wear and tear it's my decision that it is not. If tenants leave carpets with stains in them it is reasonable for landlord to have a carpet cleaner come in and clean the carpets, and the tenants are liable for the cost of that cleaning.

Amount allowed-- \$179.20

General cleaning

Under the Residential Tenancy Act a tenant is responsible to maintain "reasonable health, cleanliness and sanitary standards" throughout the premises. Therefore the landlord might be required to do extra cleaning to bring the premises to the high standard that they would want for a new tenant. The landlord is not entitled to charge the former tenants for the extra cleaning. In this case it is my decision that the landlords have not met the burden of proving that the tenants failed to meet the "reasonable"

standard of cleanliness required, as it's basically just their word against that of the tenants.

I therefore will not allow the landlords claims for general cleaning and materials.

Laundry card

I allow the landlords claim for the laundry card, as the tenants admit they did not return the card.

Amount allowed --\$10.00

October 2011 rent

I deny the landlords claim for any further October 2011 rent. The tenants testified that they vacated on the 15th of October 2011, and the landlord testified that they may well have as the office was closed until the following Monday.

Therefore the total amount of the landlord's claim that I have allowed is \$189.20.

The original security deposit was \$500.00 however the landlords have already returned all but \$311.58 of the deposit.

The landlords are still holding \$311.58 of the tenant's security deposit, and therefore they must return the difference of \$122.38.

Tenant's application

Background and Evidence

Tenants testified that:

- They are requesting compensation of 20% of their rent payments for loss of use of the balcony at the rental unit, as the balcony was in poor repair and they were unable to use it for the full term of the tenancy.
- They had verbally requested a repair to a previous maintenance man; however they had never given the landlords any written request to have the balcony repaired.
- They did not apply for dispute resolution to get a repair order as they were unaware of their right to do so.
- They are also requesting the full return of the remainder of their security deposit, less the cost of the laundry card.

Analysis

Loss of use of balcony

It is my decision that I will not allow the tenants claim for return of 20% of the rent payments for loss of use of the balcony; because it is my finding that the tenants did not take reasonable steps to mitigate their loss.

The tenants never made any written request to the landlords to have the repair done, nor did they ever apply for dispute resolution to have a repair order issued.

The tenants may well have had a loss of use and enjoyment of their balcony however it is not reasonable to wait to the very end of the tenancy and then claim back 20% of the rent payments when they have made little effort to mitigate the loss.

Security deposit

As I have not allowed the landlords full claim the tenants to have the right to the return of a further \$122.38 of their security deposit.

Conclusion

I have issued an order for the landlords to pay \$122.38 to the tenants.

I further order the recovery of the filing fee for both parties and therefore one cancels of the other and no monetary order is issued.

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: January 11, 2012.

Residential Tenancy Branch