



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MND, MNDC, MNR, MNSD, SS

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 is a request for a monetary order for \$5,782.72, and a request to retain the full security deposit plus interest.

Background and Evidence

The applicants testified that:

- On August 3, 2011 there was a violent altercation at the rental unit that resulted in the death of one of the participants.
- The person charged in the death was a former boyfriend of the tenant, who had been given a key by the tenant to enter the rental unit.
- As a result of the violent assault/death a decontamination cleanup was required in the rental unit to clean up the large amount of blood.

- As a result of the extensive damages to the suite the landlords decided to give an eviction notice to the tenant and on August 24, 2011 the tenant was served with a one month Notice to End Tenancy with the vacating date of September 30, 2011.
- On September 2, 2011 the tenant vacated without notice and dropped keys through the drop-box at the office.
- As a result of the tenant's failure to give notice, and the need for cleaning and repairs they were unable to re-rent the rental unit in the month of September 2011 and therefore lost the full rental revenue for that month.
- After the tenant vacated they also found that the rental unit needed a significant amount of cleaning and repairs.

The applicants are therefore requesting an order as follows;

Decontamination cleanup	\$375.25
General cleaning of the suite	\$294.00
Repair patio door	\$100.80
Clean and repair blinds	\$154.56
Replace damaged floor tile	\$2845.30
Replace damaged carpet	\$529.70
Dispose of contaminated couch	\$162.40
Reinstallation of toilet after tile replacement	\$92.18
Painting	\$600.00
Lost rental revenue for September 2011	\$1075.00
Filing fee	\$100.00
Total	\$6329.19

The applicants further request an order allowing them to keep the full security deposit plus interest, of \$552.47 and request a monetary order be issued for the balance, in the amount of the of \$5,776.72.

The respondent testified that the:

- She did give her key to an ex-boyfriend to remove some belongings from her suite; however she had no idea of his criminal nature and had no way of knowing an assault causing death would occur in her suite. She is a victim in this situation and feels being charged for the cleanup from the assault further victimizes her.
- She also does not believe she should be charged for general cleaning of the suite because she cleaned the suite prior to leaving.
- She does not believe she should be charged for repair to the patio door lock, as this lock broke under normal wear and tear due to an inadequate previous repair.
- She also does not believe she should be charged for re-stringing the blinds as the strings were not broken they were simply tangled and could have been untangled.
- She also does not believe she should be charged for the damaged floor tile because right on the estimate for the repair of the tiles it states that “the probable reason for the fractures in the existing ceramic tile is because the builder did not allow for an anti-fracture membrane under the tile.” It further states “topical gouges are from dropping items on the ceramic tile which is more easily damaged and porcelain tile”. She therefore believes that the tile damage was the result of normal wear and tear.
- She does not dispute the claim for the damaged carpet.
- She does dispute the claim for hauling the contaminated couch and disposal as she was not requested by the landlord to dispose of the item prior to the landlord removing it.
- She disputes the claim for a reinstalling the toilet, as this relates to the tile which she believes was damaged by normal wear and tear.
- She also disputes the claim for painting fee as she herself painted the apartment following the incident and the landlord agreed to that. Further she lived in the apartment for 4 1/2 years and the apartment was never painted in that time.

- She also does not believe she should have to pay for the September 2011 lost rental revenue as she was suffering from posttraumatic stress syndrome following the assault/death and was unable to stay in the residence.

The respondent therefore believes that she should not be held responsible for any of this claim, other than the replacement of the carpet in the amount of \$529.70.

Analysis

Decontamination cleanup

Although I agree that the tenant is a victim in this case, she is still responsible for any damages caused by an invited guest and since she had willingly given the key to the person who caused the assault/death she is liable for the costs of the decontamination cleanup required.

Amount allowed-- \$375.25

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 tenant for the extra cleaning.

In this case however it is my decision that the landlords have shown that the tenant failed to meet the "reasonable" standard of cleanliness required because, although the tenant may have done some cleaning, the photo evidence clearly shows that a substantial amount of cleaning was still required.

I am therefore willing to allow 1/2 the amount paid by the landlord for cleaning.

The landlord paid \$294.00 for cleaning and therefore I allow \$147.00

Patio door repair

I will not allow the claim for the patio door repair as the landlord has not met the burden of proving that this damage was the result of any negligence on the part of the tenant.

Restraining blinds

I deny the claim for restringing the blinds, because the invoice provided by the landlord is unclear as to what was wrong with the blinds.

Replacement of damaged tile

I also deny the claim for replacement of the damaged tile and reinstallation of the toilet after replacement of the tile, because the estimate from the flooring professional clearly states that this damage is likely the result of improperly installed tile.

Disposal of couch

I deny the claim for the disposal of the contaminated couch, because there is no evidence to show the landlords ever requested that the tenant dispose of the couch prior to doing it themselves.

Carpet replacement

The tenant has not disputed the claim for the cost of replacing the carpet and therefore I allow the claim for \$529.70.

Painting

I deny the claim for painting, because this was a 4 1/2 year tenancy and it is not unreasonable for a landlord to expect to have to repaint the suite approximately every three years. The suite was not repainted by the landlords at any time during the tenancy.

Lost rental revenue

I will allow the landlords claim for lost rental revenue, because the tenant did not give the required Notice to End Tenancy prior to vacating and as a result the landlord lost the full rental revenue for the month of September 2011.

Amount allowed--\$1075.00

Filing fee

I will allow one half the filing fee, because the amount of the claim that I have allowed is less than the \$5,000.00 amount at which the fee rises from \$50.00 to \$100.00.

Amount allowed--\$50.00

Conclusion

I have allowed \$2176.95 of the applicants claim and I therefore order that the applicants may retain the full security deposit/plus interest totalling \$552.47, and I have issued a monetary order in the amount of \$1624.48.

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 12, 2012.

Residential Tenancy Branch