



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenant CNC, MNDC, FF
Landlord OPR, OPC, MND, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenant.

The Landlord filed seeking to end the tenancy, to be compensated for unpaid rent, to receive compensation for damage to the unit, site or property, for compensation for loss or damage under the Act, the regulations or the tenancy agreement, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Tenant has applied to cancel the Notice to End Tenancy and the Tenant is seeking a monetary order for compensation for damage or loss under the Act, the regulations or the tenancy agreement and to recover the filing fee for this proceeding.

Service of the hearing documents by the Landlord to the Tenant were done by registered mail on February 16, 2012, in accordance with section 89 of the Act.

Service of the hearing documents by the Tenant to the Landlord were done by personal delivery on February 14, 2012, in accordance with section 89 of the Act.

At the start of the conference call the Landlord said the Tenant moved out of the rental unit on March 12, 2012. Consequently the Landlord is withdrawing the application for an order of Possession and the Tenant is withdrawing the request to cancel the Notice to End Tenancy as the tenancy is no longer in affect.

This hearing was a reconvened hearing from March 5, 2012 as the landlord's application was not available at the time of that hearing due to a filing error at the Residential Tenancy Branch.

Issues to be Decided

Landlord:

1. Is there unpaid rent and if so how much?
2. Is the Landlord entitled to unpaid rent and if so how much?
3. Is there damage to the unit, site or property and if so how much?
4. Is the Landlord entitled to compensation for damage and if so how much?
5. Are there damages or losses to the Landlords and if so how much?
6. Is the Landlord entitled to compensation for damage or loss and if so how much?
7. Is the Landlord entitled to retain the Tenant's security deposit?

Tenant:

1. Are there damages or losses to the Tenant and if so how much?
2. Is the Tenant entitled to compensation for loss or damage and if so how much?

Background and Evidence

This tenancy agreement started on November 5, 2009 as a month to month tenancy. Rent was \$1,300.00 per month payable on the 5st day of each month. The Tenants paid a security deposit of \$650.00 on November 5, 2009.

At the start of the hearing the Tenant said he had moved out of the rental unit on March 12, 2012 and there was no unpaid rent from the tenancy. The Landlord agreed the Tenant had moved out and the rent was all paid.

The Tenant continued to say that his claim is for 4 nights accommodation at a hotel as a result of pests (weasels) being in the rental unit. The Tenant said his claim is for \$610.40 which is the cost of the hotel for 4 nights. The Tenant submitted receipts from the hotel verifying the amount he is claiming. The Tenant continued to say that the Landlord is responsible for the weasel infestation because the rental unit is not sealed well and there are holes in the floor boards around the washer and dryer as well as in other areas. The Tenant said this is how the weasels gained enter into the rental unit.

The Landlord said they are not responsible for the weasel infestation, because the pest control company hired to trap the weasels wrote in their report "reason there are pest problems is cause of sanitation problems" the pest report refers to food products and

recycling being left out. The pest report also says there are holes in the floor boards that should be repaired, but the holes are not the reason for the pests coming around. The Landlord said that because of the Tenant's sanitation issues the weasel infestation is not the Landlord's responsibility. The Landlord said the problem is due to the Tenant leaving food out which attracted the weasels.

The Landlord continued to say that they have not had time to do any of the repairs to the rental unit except to start the cleaning and they did submit a bill for \$302.40. As a result the Landlord asked if they should adjourn this hearing until they can do the repairs so that they can prove a loss or should they make a new application when they have done the work and know the cost. I told the Landlord that was their decision and the Landlord said they would make a new application when they have done the work and can prove the loss that they are claiming.

The Tenant said the Landlord could retain his security deposit of \$650.00 to pay the cleaning bill of \$302.40 and for cleaning the carpets, the Tenant subjected this as he did not clean the unit when he left. The Landlord agreed to retain the security deposit of \$650.00 as partial payment for cleaning the rental unit.

Analysis

As the Tenant and Landlord both agreed that the Landlord could retain the Tenant's security deposit of \$650.00 as partial payment for cleaning the rental unit, I concur with the parties and order the Landlord to retain the Tenant's security deposit of \$650.00 as partial payment of the cleaning cost including the bill submitted by the Landlord for \$302.40.

Further as the Landlord has not completed any other work on the rental unit the Landlord is not able to prove a loss actually exists; therefore I dismiss the Landlord's claims for damage to the unit, site or property and damage or loss under the Act, regulations or tenancy agreement with leave to reapply if the Landlord chooses to do so.

With regard to the Tenant's application for reimbursement of hotel costs in the amount of \$610.40; I find the Landlord has provided evidence from the pest report that the cause of the weasel infestation was a sanitation issue primarily and the problem was only partially the holes in the floor boards. Consequently I accept that the Tenant is partially responsible for the weasel infestation; therefore the Tenant has not established grounds to prove his claim that the Landlord is responsible for the weasel infestation and the hotel bills of \$610.40. I dismiss the Tenant's application without leave to reapply.



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As the Tenant was not successful in this matter I order the Tenant to bear the costs of the \$50.00 filing fee which he has already paid.

As the Landlord was only partially successful in these matters, I order the Landlord to recover the filing fee of \$100.00 from the Tenant's security deposit of \$650.00.

Conclusion

The Tenant's application is dismissed without leave to reapply.

The Landlord is ordered to retain the Tenant's security deposit of \$650.00.

The Landlord's application for damage to the unit, site or property and a loss or damage under the Act, regulations or tenancy agreement is dismissed with leave to reapply.

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*.

Residential Tenancy Branch