



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNSD FF O

Introduction

This hearing dealt with applications by the tenant and the landlord. The tenant applied for double recovery of her pet and security deposits. The landlord applied for monetary compensation for damage to the rental unit and an order to retain the deposits in partial compensation of the monetary claim.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. I have reviewed all testimony and other evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

Is the tenant entitled to double recovery of the pet and security deposits?
Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began in August 2010. At the outset of the tenancy the tenant paid the landlord a security deposit of \$225 and a pet deposit of \$225. No move-in inspection was conducted at the outset of the tenancy. The monthly rent was \$900. The tenancy ended in November 2011. No move-out inspection was conducted at the end of the tenancy. The tenant filed her application for recovery of the pet and security deposits on January 4, 2012. The landlord applied for monetary compensation and to keep the deposits on February 20, 2012.

Tenant's Application

The tenant stated that she first gave the landlord her written forwarding address on December 13, 2011, when she put it through the mail slot at the landlord's house. The tenant then provided her written forwarding address a second time in her application for

return of the deposits, which she sent to the landlord on January 4, 2012, and a third time when she sent the forwarding address by registered mail on January 5, 2012. The landlord did not return the deposits or make an application to keep the deposits within the required time frame, and the tenant is therefore entitled to double recovery of the deposits.

The landlord stated that he did not return the deposits because after the tenant moved out the landlord discovered extensive damage to the rental unit which was caused by the tenant.

Landlord's Application

At the end of the tenancy, the landlord discovered extensive damage to the rental unit, mostly due to a leaking dishwasher. The landlord had no idea that this was going on. When the tenant returned the keys to the landlord at the end of the tenancy, she said that she was sorry about the mould, she tried to clean it up. The landlord found that the flooring surrounding the dishwasher was rotted, wet and smelly. The landlord found it hard to believe that the tenant did not notice the damage during the tenancy. The landlord had to replace the entire floor, the mouldings and the drywall in that area of the rental unit. Additionally, there were at least 50 holes in the walls throughout the rental unit, which had to be patched. There were also chips in the walls, stickers, and cat scratches under the windows. Everything except the kitchen, the bathroom and the ceilings required painting. The landlord was unable to re-rent the unit until February 1, 2012 because of the required repairs.

The landlord has claimed the following amounts:

- 1) \$500 for the insurance deductible to replace the floor
- 2) \$896 for water testing – the building manager ordered water testing because of the leak from the dishwasher
- 3) \$117.91 for hydro bills – the landlord had to run dryers and turn up the heat to dry out the water damage
- 4) \$770.09 for painting costs
- 5) \$20 for an unpaid parking fee for November 2011
- 6) \$2,500 for lost revenue for November 15, 2011 to February 1, 2012, based on the new tenant's rent of \$1,000 per month

In support of his application, the landlord submitted photographs, receipts and a letter from the restoration company. Two of the photographs depicted some visible mould on the wall near a pipe, and one photograph showed a portion of mouldings that appeared

damp and discoloured. Other photographs showed mould that was only visible after flooring was removed. No photographs depicted any of the holes in the walls; however, one photograph did show stickers on one wall. In the letter from the restoration company, the author of the letter indicated that in their opinion the water damage resulted from the leaking dishwasher.

The tenant's response to the landlord's claim was as follows. The tenant had no idea that the dishwasher was leaking. There was no water on the floor, and the tenant hardly ever used the dishwasher. There were already holes in the walls at the beginning of the tenancy. The tenant returned the parking remote at the end of October 2011, and the landlord returned the \$50 remote deposit. The tenant did not use the parking during November 2011.

Analysis

Tenant's Application

Section 38 of the Residential Tenancy Act requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the base amount of the security and pet deposits.

In this case, the tenancy ended in November 2011. The tenant's testimony was that she provided her forwarding address in writing on three dates; the latest date that the landlord would have been deemed served with the tenant's forwarding address in writing was January 10, 2012, five days after the tenant sent it by registered mail. The landlord has failed to repay the security and pet deposits or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address in writing. I therefore find that the tenant has established a claim for double the pet and security deposits, in the amount of \$900.

Landlord's Application

I find that the landlord has not provided sufficient evidence that the damage caused by the leaking dishwasher was due to the negligence of the tenant. The landlord failed to conduct a move-in inspection report, which would have established the condition of the unit at the outset of the tenancy. The leaking may have begun before the tenancy began. Further, the tenant stated that she had no idea the dishwasher was leaking, and the landlord did not provide sufficient evidence that the tenant must have been wilfully blind to the smell of the mould. The landlord's photographs depict some visible mould in a small area of the rental unit; however, most of the mould and damage was not visible. I therefore find that the landlord is not entitled to any of the amounts associated with the leaking dishwasher, including the amounts claimed for water testing, hydro bills and lost revenue.

In regard to the painting costs, I find as follows. One of the landlord's photographs clearly shows stickers on a wall. However, the landlord did not provide any other clear evidence regarding holes and chips in the wall. The tenant stated that the holes were there at the beginning of the tenancy. I accept the landlord's evidence regarding the stickers on the wall, which may have necessitated repair and painting of that wall. I therefore grant the landlord \$100 for repairs and painting.

I accept the testimony of the tenant that she returned the parking remote and was therefore not responsible for the parking fee for November 2011, and the landlord is not entitled to that amount.

Filing Fees

As the tenant's application was successful, she is entitled to recovery of her \$50 filing fee for the cost of her application.

As the landlord's application was mostly unsuccessful, he is not entitled to recovery of his filing fee.

Conclusion

The tenant is entitled to \$950.

The landlord is entitled to \$100. The remainder of the landlord's application is dismissed.

I grant the tenant an order under section 67 for the balance due of \$850. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: March 26, 2012.

Residential Tenancy Branch