



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR, MND, MNDC, MNSD

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 \$1010.00 and a request for recovery of the \$50.00 filing fee. The applicant is also requesting an order to keep the full security deposit of \$250.00 towards this claim.

Background and Evidence

The applicant testified that:

- It is her belief that the tenant's grandson spilled chocolate milk on her furniture resulting in a stain that will have to be cleaned professionally.
- She did not actually see the child spill the milk, however the tenants grandson had been walking around with a glass of chocolate milk just prior to her finding the stain.

- She has a quote for dry-cleaning to get rid of the stain at a cost of \$410.26.
- The tenant also moved out of the rental unit without giving any notice and as a result she lost the full rental revenue and utilities for the month of February 2012.

The applicant is therefore requesting a monetary order as follows:

Upholstery dry-cleaning	\$410.00
Lost rental revenue for February 2012	\$500.00
Lost utility revenue for February 2012	\$100.00
Filing fee	\$50.00
Total	\$1060.00

The respondent testified that:

- She accepts that her grandson did, most likely, cause the chocolate milk stain on the furniture, however at the beginning of the tenancy she agreed to pay an extra \$100.00 per month to cover utilities and the use of the landlords furniture and therefore she believes the landlord has been more than compensated for the costs of cleaning the furniture.
- The reason she vacate the rental unit without proper notice is because she was accosted and assaulted by the landlord at the top of the stairs just after returning from serious surgery, and had she not been holding onto the banister she would have been likely knocked down the stairs.
- The landlord angrily slugged some documents into her body when she did not take them because her hands were full.
- As a result of this assault she felt unsafe staying at the rental unit and vacated shortly thereafter.

In response to the tenants testimony landlord testified that:

- The tenant agreed to pay \$100.00 towards utilities; it had nothing to do with the use of her furniture.

- She did not assault the tenant and in fact all she did was shove the envelope with the Notice to End Tenancy between the tenants arm and her body as she was refusing to take the document from her.

Analysis

Upholstery cleaning

It is my decision that the respondent is responsible for the \$410.00 cost of cleaning the upholstery that was stained by her grandson.

The respondent claims that the extra \$100.00 per month was to cover utilities and the use of furniture, however she has supplied no evidence in support of this claim, and in fact all the evidence supplied for today's hearing indicate that the \$100.00 was for utilities.

Therefore I do not accept the respondent's claim that the landlord has already been compensated towards damage to the furniture.

Rent and utilities

It is also my decision that the tenant is liable for the lost rental revenue for the month of February 2012.

The tenant claims that she vacated because she was assaulted by the landlord, however she has provided no evidence in support of the claim other than her own word and that is not sufficient to meet the burden of proving that the landlord assaulted her.

Therefore it is my finding that the tenant was required to give the proper Notice to End Tenancy prior to vacating, and since the landlord lost rental revenue as a result of the failure to give notice, the tenant is liable for that loss revenue.

I deny however the landlords claim for \$100.00 for utilities, because since the tenant was not in the rental unit for the month of February 2012 there is no way she could have used any utilities. The landlord herself as testified that the reason the tenant agreed to pay the extra \$100.00 per month was because she would be using extra utilities however if she is not in the rental unit and no utilities are being used, it is my decision that the tenant is not liable for that extra \$100.00.

Filing fee

Since I have allowed a large portion of the landlords claim I also order that the respondent bear the cost of the \$50.00 filing fee.

Conclusion

I have allowed \$960.00 of the landlords claim, and I therefore order that the landlord may retain the full security deposit of \$250.00 and I have issued a monetary order in the amount of \$710.00. The remainder of the landlords claim is dismissed without 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*.

Dated: April 16, 2012.

Residential Tenancy Branch