



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- authorization to retain a portion of the tenant's pet damage and security deposits in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The tenant confirmed that she received a copy of the landlord's dispute resolution hearing and written evidence packages sent by the landlord by registered mail on February 9, 2012. I am satisfied that the landlord served these documents to the tenant in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to retain a portion of the tenant's pet damage and security deposits in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This tenancy commenced initially as a one-year fixed term tenancy to the tenant and her then co-tenant on April 1, 2010. Effective April 5, 2011, the tenancy agreement was amended to show the tenant as the sole tenant. After the expiration of the initial term of the agreement, the tenancy continued as a periodic tenancy. Monthly rent was set at \$1,050.00, payable in advance on the first of each month. A \$525.00 security deposit and a \$525.00 pet damage deposit were paid to the landlord for this tenancy on March 17, 2010. The landlord provided written evidence to confirm that he returned \$843.20 of the tenant's pet damage and security deposit by way of a cheque dated February 8, 2012. The tenant confirmed having received that cheque.

The landlord applied for authorization to retain the remaining \$156.80 of the tenant's pet damage and security deposits plus the \$50.00 filing fee for this application from the tenant. He entered undisputed oral and written evidence that the tenant did not comply

with the terms of Addendum #1 to the residential tenancy agreement by having the carpets professionally steam cleaned at the end of this tenancy. The tenant did not dispute the landlord's testimony that she and her previous co-tenant signed Addendum #1 at the commencement of this tenancy which included the following provision:

...It is a material term of the tenancy agreement that all carpets will be professionally steam cleaned by a truck mounted carpet cleaner. (Please note that rental carpet cleaners are not acceptable) A receipt for this service must be provided to the landlord at the move out inspection...

To support the landlord's application for authorization to retain the remaining portion of the tenant's deposits, he submitted a copy of a January 30, 2012 receipt from a professional carpet cleaning service for the steam cleaning of carpets in this rental unit in the amount of \$156.80. He also submitted a copy of an April 3, 2010 receipt from the same cleaning service for the cleaning of carpets at the commencement of this tenancy.

The tenant did not dispute the landlord's claim that she had not hired a professional carpet cleaning company to steam clean her carpets at the end of this tenancy. She testified that she had an oral agreement with the landlord's representative that in exchange for the poor condition of many of the features of the rental unit when the tenancy began the landlord would not require her to provide professional steam cleaning of the carpets at the end of this tenancy. She said that the carpets were not properly cleaned when she commenced her tenancy and there were many other features of the tenancy which needed repairs. Although she confirmed that these repairs were conducted by the landlord near the beginning of the tenancy, she said that she was supposed to obtain a rent reduction from the landlord for these deficiencies. She testified that she did not have anything in writing from the landlord's representative to confirm any of her statements. She testified that she did steam clean the carpets herself with a better steam cleaner than would be provided by the professional steam cleaning company that the landlord retains. She said that the landlord's representative agreed with her at the move-out inspection that the rental unit was in excellent condition, including the carpets.

The landlord denied any knowledge of any oral agreements with his representative and noted that the joint move-in condition inspection report did not identify any major problems with the condition of the premises at the commencement of this tenancy. The landlord entered into written evidence a copy of the joint move-in and joint move-out condition inspection reports of April 1, 2010 and January 27, 2012, the day that the tenant vacated the rental unit.

Analysis

I have given careful consideration to the tenant's claim that she had an oral agreement with the landlord's representative that would enable her to refrain from obtaining professional steam cleaning of her carpets at the end of this tenancy. The tenant testified that she knew that she should have obtained written confirmation from the landlord's representative that she was entitled to the allowances she identified at the hearing that would enable her to avoid paying for professional steam cleaning of the rental unit. Without anything in writing to confirm that a representative of the landlord had agreed to ignore a very clear provision in Addendum #1 of the tenancy agreement, I find that the tenant has failed to comply with a term of her tenancy requiring her to have the carpets professionally steam cleaned at the end of her tenancy. The condition inspection reports entered into evidence by the landlord does not make any notation of serious deficiencies in the condition of the premises at the commencement of the tenancy for which the landlord was willing to reduce rent.

Under the circumstances, I find that the landlord has demonstrated that the tenant did not comply with a specific term of her tenancy agreement and that he suffered losses in obtaining the professional steam cleaning she failed to provide at the end of her tenancy. I find that the landlord is entitled to recover the \$156.80 loss he incurred to obtain steam cleaning of the rental unit at the end of this tenancy. As the landlord has been successful in his application, I allow the landlord to recover his \$50.00 filing fee for this application from the tenant.

The landlord currently retains \$206.80 from the tenant's pet damage and security deposits. No interest is payable over the period of this tenancy. I allow the landlord to retain the \$206.80 he currently retains from the tenant's deposits.

Conclusion

I find that the landlord is entitled to a monetary award of \$206.80 for losses he incurred and recovery of his filing fee. To implement this decision, I order that the landlord retain the \$206.80 portion of the tenant's pet damage and security deposits he continues to hold. 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 12, 2012

Residential Tenancy Branch