



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing dealt with cross-applications by the landlord and tenant, each party seeking a monetary order against the other and each claiming the security deposit. Both parties participated in the conference call hearing.

Issues to be Decided

Is the landlord entitled to a monetary order as claimed?
Is the tenant entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that the tenancy began in December 2009 and ended on March 31, 2012. The tenant was obligated to pay \$1,560.00 in rent each month and a further \$1,200.00 each month for what was termed a “Facilities and Services Fee” (hereinafter the “Fee”). The Fee included weekly housecleaning, laundry services and meals.

The tenant suffered a health crisis and had to be removed from the rental unit in mid-February 2012. She had prepaid her rent and the Fee for the month of February and the landlord held post-dated cheques for the month of March which he negotiated.

The tenant seeks the return of the \$1,370.00 security deposit as well as the return of half (\$600.00) of the Fee paid for February and the return of the entire \$1,200.00 fee paid for March as she did not use the facilities and services during that period.

The parties did not submit a copy of the full tenancy agreement, but they agreed that the agreement did not contain a provision which required the tenant to give notice if she were no longer in need of the facilities and services associated with the Fee. Neither did the agreement contain a provision whereby the tenant was entitled to recovery of the Fee in the event she did not use the facilities and services.

The landlord seeks an award of \$128.80 as the cost of cleaning the carpet at the end of the tenancy. The tenant's agent acknowledged that the carpet was not shampooed at the end of the tenancy, but argued that because the Fee included cleaning services, she should not have been expected to shampoo the carpets at her own expense. She further argued that the landlord had quoted her a cost of \$89.00 to clean a one bedroom suite and a cost of \$125.00 to clean a two bedroom suite, so the agent had expected that no more than \$125.00 would be charged.

The landlord further seeks an award of \$50.00 for two hours of housecleaning. The landlord provided photographs of the refrigerator and a cupboard drawer which showed that they had not been wiped down at the end of the tenancy.

Both parties seek to recover the filing fee paid to bring their applications.

Analysis

Because the tenant's agent acknowledged that shampooing carpets was not part of the services covered by the Fee and because Residential Tenancy Policy Guideline #1 provides that tenants who live in a rental unit for at least one year are expected to shampoo carpets at the end of their tenancy, I find that the tenant is responsible for the cost of cleaning the carpet. I award the landlord \$125.00.

I dismiss the landlord's claim for \$50.00 in housecleaning charges. The tenant was expected to leave the rental unit reasonably clean. The landlord confirmed that the only cleaning required was wiping down the refrigerator and cupboards and having viewed the photographs, I find it unlikely that cleaning would have required more than 10 minutes. I find that the tenant left the unit reasonably clean.

Although the tenancy agreement does not contain a provision whereby the tenant is entitled to a rebate when services are not required, I note that the services represented by the Fee are consumables and the landlord did not have to provide the food or services if the tenant did not require them. As the landlord has suffered no loss as a result of the tenant not having used the services and as the tenant has paid for services which she could not receive or benefit from, I find it appropriate to order the landlord to return the \$1,800.00 paid from mid-February to the end of March and I award the tenant that sum.

As both parties have enjoyed some success, I find it appropriate that they each bear their own filing fees.

Conclusion

The landlord has been awarded \$128.80 and the tenant has been awarded \$1,800.00. The landlord holds a \$1,370.00 security deposit. I order the landlord to retain \$128.80 from the security deposit and to return the balance of \$1,251.20 together with the \$1,800.00 awarded to the tenant. I grant the tenant a monetary order under section 67 for \$3,051.20. This order may be filed in the Small Claims Division of the Provincial 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: June 06, 2012

Residential Tenancy Branch