



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a monetary order for unpaid rent, for damage and cleaning, for compensation under the Act and the tenancy agreement, and to recover the filing fee for the Application.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure, however, I refer to only the relevant facts and issues in this decision.

Preliminary Matters

The parties were involved in one prior hearing. The Tenant had claimed against the Landlord for return of double the security deposit. It was found the Tenant had not paid a security deposit to the Landlord and the Application was dismissed.

At the outset of the hearing, the Tenant acknowledged receipt of the Landlord's evidence. The Tenant testified he did not provide documentary evidence. I find the evidence had been exchanged in accordance with the Act.

Issue(s) to be Decided

Is the Landlord entitled to monetary compensation from the Tenant?

Background and Evidence

This tenancy began in October of 2009, with two Tenants. The monthly rent for the rental unit was initially \$1,200.00. The rental unit is a suite in the same property where the Landlord resides.

The Tenants had immigrated to Canada from another country and the Landlord observed they required some financial assistance. The Landlord testified he gave them a bed, some furniture and \$200.00 from the first month of rent to buy food. He told the Tenants they could pay the security deposit at a later date. The Tenants did not pay the Landlord the security deposit.

A few weeks into the tenancy, one of the Tenants left the rental unit to return overseas and continue their course of study.

The Landlord testified he told the remaining Tenant, the one who is named in this Application, that he would reduce the rent by \$100.00 per month while the other tenant was away. The Landlord testified he explained to the Tenant that the rent would return to \$1,200.00 when the second Tenant returned, as they had agreed in the oral tenancy agreement.

According to the Landlord, the tenant who left to complete their studies returned for a brief period but did not stay. The Landlord testified he drove this tenant to the airport and never saw this person again.

The Landlord testified that before the end of the tenancy another person moved into the rental unit with the Tenant. The Landlord and his spouse testified that they could see this person staying at and leaving the rental unit. Bills came to the rental unit in the name of this person. The Landlord went to the rental unit to discuss this with the Tenant, and the occupant told the Landlord she had been living there with the Tenant for about 12 months. The Landlord informed the Tenant and the occupant that the rent for two people in the rental unit was \$1,200.00 per month as agreed at the outset of the tenancy, and the occupant had no right to be there. The Tenant and the occupant refused to pay the extra rent and accused the Landlord of breaching their quiet enjoyment. They gave their notice to end tenancy shortly after this meeting and vacated the rental unit on January 31, 2012.

In evidence the Landlord provided a photocopy of two bill envelopes in the name of the occupant, not the Tenant, sent to the rental unit address. The Landlord also provided

photographs in evidence, one of which shows a moving van at the rental unit with what appears to be women's clothing in the load.

The Landlord testified the Tenant left the rental unit without doing the outgoing inspection. The Landlord claims the Tenant did not remove all the furniture from the rental unit and had to pay to have this removed, although he had no receipt for this.

The Landlord also claims the Tenant did not leave the rental unit in a reasonably clean state when he vacated, that the carpets were not cleaned and were damaged in some areas by stains which would not come out, that there was damage done to the ceiling of another rental unit when the Tenant caused an overflow of water from the toilet, and the a door jamb was damaged when moving out.

The Landlord claims as follows:

a.	Ten months additional rent for occupant	1,000.00
c.	Carpet cleaning	235.18
d.	Carpet repair	500.00
e.	Unit cleaning	200.00
f.	Ceiling damage	75.00
g.	Door jamb damage	50.00
h.	Filing fee	50.00
	Total claimed	\$2,230.18

In evidence the Landlord has supplied photographs, receipts, a copy of the previous decision, and copies of envelopes sent to the rental unit in the name of the occupant.

In reply, the Tenant agreed that at the outset of the tenancy the rent was \$1,200.00.

The Tenant testified that when the Landlord told him he was reducing the rent to \$1,100.00, he did not explain why it was being reduced. The Tenant testified he did not ask the Landlord why the rent was being reduced.

The Tenant testified that the occupant was not living there, although she put the telephone in her name to help him. The Tenant also testified that the Landlord did not approach him regarding putting the rent back to \$1,200.00. The Tenant stated the Landlord did not tell him he could not have visitors.

The Tenant further testified that he had cleaned the rental unit before he vacated.

The Tenant testified he had the carpet cleaned but did not put the receipt in evidence for this because someone at the branch told him the evidence from the previous hearing file would be put into this hearing file for this hearing.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find the Tenant breached the tenancy agreement by failing to pay the Landlord the amount of rent agreed upon for two occupants in the rental unit and breached section 37 of the Act by failing to leave the rental unit reasonably clean and undamaged, except for reasonable wear and tear.

I find the Landlord's evidence to be more credible than that of the Tenant, as I found the Tenant lacked credibility during the hearing. For example, I do not accept that the Landlord would lower the rent and not explain why this was done to the Tenant, or that the Tenant did not ask why the rent was being lowered. Likewise, I do accept the Tenant's testimony that someone at the branch told him his evidence from the earlier matter would be put into this file for this hearing. This is not how the policy or procedure works to copy evidence from one file into another.

I find the Tenant breached the Act and tenancy agreement, and I find these breaches have caused the Landlord to suffer losses.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

As to the monetary claims, I accept the testimony of the Landlord and his spouse that the additional occupant resided in the rental unit for a period of 10 months. The Landlord and his spouse lived at the same property and were well aware of the activities taking place at the rental unit. I allow the Landlord \$1,000.00 for this as the rent at the rate as agreed to at the outset of the tenancy.

I do not allow the Landlord \$120.00 for the cost of removing furniture, as there was insufficient evidence on the costs to the Landlord of this work. Furthermore, I do not allow the Landlord \$500.00 for the repair of the carpet, as the Landlord testified the

carpet was over ten years old. Under the policy guideline to the Act, the carpet had outlived its useful life expectancy.

Nevertheless, the Act and policy guideline required the carpets to be cleaned prior to vacating. I find that the carpets were not steam cleaned when the Tenant left, and allow the Landlord's claim for this.

I also find the Tenant did not clean the rental unit, or repair the ceiling or door jamb.

Having made the above findings, I find the Landlord has established a total monetary claim of **\$1,610.18** comprised of the above described amounts and the \$50.00 fee paid for this application and I grant the Landlord a monetary order for that amount.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: July 19, 2012.

Residential Tenancy Branch