



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord, her witness, and both tenants.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for damage or loss resulting from the tenancy; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 45, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenants submitted a copy of a tenancy agreement signed by the parties on March 24, 2010 for a month to month tenancy beginning on April 1, 2010 for a monthly rent of \$1,400.00 due on the 1st of each month with a security deposit of \$700.00 paid on March 24, 2010.

The landlord submits the tenants provided written notice to end the tenancy in a letter dated June 27, 2012 but that the envelope was postmarked July 4, 2012 and she received it on July 6, 2012.

The tenants do not dispute when the landlord received the notice, however they do submit that they informed the landlord verbally on June 27, 2012 of their intention to vacate the rental unit. The tenants also submit that their intention to vacate was discussed in the Dispute Resolution hearings conducted in mid June 2012 between the two parties, although no specific end date was discussed at that time.

The landlord submits that they advertised the availability of the rental unit on Craigslist and has submitted a copy of the advertisement stating the unit was available for August or September 2012. The tenants have submitted a copy of the Craigslist advertisement that was posted on July 8, 2012 showing the unit is available effective September 2012 only.

The landlord testified that her husband had posted the advertisement and that he had originally put up the original posting they had used prior to the start of this tenancy and that he later altered the amount from \$1,400.00 to \$1,300.00 and the availability to include August 2012.

The landlord testified her husband made that change to the advertisement sometime during the week of July 9-13, 2012. The tenants submit that the earliest the landlord can confirm, by her own evidence, that the posting was altered was July 27, 2012. The tenants refer to the copy of the posting that was email to her cell phone on July 27, 2012.

The tenants also submit that the landlord only showed the rental unit once after they gave their notice but acknowledge that they had moved all of their belongings out and returned their keys by July 19, 2012.

The landlord testified the tenants had made it difficult to show the rental unit and as such she was only able to show it once while they were still in possession of the rental unit. She went on to say that once the tenants had moved out she was able to show the unit to several potential tenants, all of whom were looking for September 2012.

The landlord confirmed and provided documentary evidence that she entered into a new tenancy agreement with another party on July 29, 2012 effective September 1, 2012. The landlord seeks compensation for lost rental income for the month of August 2012.

The landlord also seeks compensation for carpet cleaning and for tile and grout cleaning. The landlord has submitted that the tenants left the tile floors sticky and uncleaned and had failed to professionally clean the carpets in the living room and stairs.

The tenants submit the landlord did not complete a move in condition inspection at the start of the tenancy and that the tenancy agreement has no requirement to professionally clean carpets or tile grout.

The tenants testified that they had the carpets cleaned and provided a receipt showing the living room was vacuumed; shampooed; power scrubbed and extracted. The tenants provided photographic evidence showing the carpets being cleaned. The landlord testified the stairs had not been cleaned; the tenants did not provide any testimony regarding the stairs.

The landlord's witness testified that she had attended the rental unit on behalf of the landlord on July 19, 2012 to collect the keys from the tenant and she noted the tile was sticky under foot and that she couldn't tell if the carpets had been cleaned.

She also noted she had been present when the tenants returned on July 31, 2012 and discussion ensued regarding the tile, grout, and carpet cleaning the landlord had scheduled. Both parties agree that at the time the discussion broke down and the tenants left the unit with no other issues, related to this Application, being discussed.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 45(1) of the *Act* stipulates that a tenant may end a tenancy by giving the landlord written notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

Based on the fact the tenants did not dispute when the landlord received their notice to end the tenancy, I accept the landlord received the tenants' notice on July 6, 2012 and as such the tenants are responsible for the payment of rent for August 2012.

However, based on the advertisement from Craigslist provided by the tenants, I find that when the landlord posted the advertisement she had done so stating the availability was September and not August 2012.

I also accept the landlord did have the advertisement altered but in the absence of any other documentary evidence or direct testimony from the landlord's husband, who updated the advertisement, I find the landlord has failed to establish that the advertisement was changed in sufficient time to find potential tenants for August 2012. That is to say from the evidence before me and based on the balance of probabilities I find the earliest the landlord changed the advertisement was July 27, 2012.

Section 7 of the *Act* requires a party seeking compensation for damage or loss suffered for non-compliance with the *Act*, regulation or tenancy agreement must do whatever is reasonable to minimize the damage or loss. I find the landlord failed to take sufficient reasonable steps to attempt to re-rent the unit for the month of August and therefore has failed to take sufficient steps to mitigate the loss of rental income as is required under Section 7.

In relation to the landlord's claim for carpet, tile and grout cleaning, I accept the tenant's position that there were no specific terms in the tenancy agreement regarding carpet, tile and grout cleaning.

Section 37 of the *Act* requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all keys or other means of access that are in the possession and control of the tenant and that allow access to and within the residential property.

In addition, Residential Tenancy Policy Guideline 1 states that generally at the end of a tenancy of duration of a year or more tenants would be held responsible for steam cleaning or shampooing carpets.

Based on the evidence before me, I accept the tenants have sufficiently cleaned the carpets in the living room, meeting their obligations under Section 37 and the Policy Guideline. However, as the tenants did not dispute the landlord's claim for cleaning the stairs or provide a receipt for cleaning the carpets on the stairs, I find the landlord is entitled to carpet cleaning charges for the stairs, in the amount of \$67.00.

In relation to the claim for grout and tile cleaning, I note grout stains usually develop over an extended period of time and depend on whether or not the grout has been sealed.

While the requirement to leave a unit reasonably clean generally means that hard surface flooring is reasonably clean, I find, particularly in absence of any evidence as to the condition of the grout at the start of the tenancy, the landlord cannot hold the

tenants responsible for cleaning grout, however the tenants are responsible for cleaning the tiles themselves.

As the landlord's receipt for tile and grout cleaning does not separate out how much was attributed to tile cleaning and how much was attributed to grout cleaning, I find the landlord has failed to establish the value of tile cleaning.

Conclusion

For the reasons noted above, I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$92.00** comprised of \$67.00 carpet cleaning the stairs and \$25.00 of the \$50.00 fee paid by the landlord for this application, as she was only partially successful in her claim.

I order the landlord deduct this amount from the security deposit held in the amount of \$700.00 in satisfaction of this claim and return the balance to the tenants. I grant a monetary order to the tenants in the amount of **\$608.00**.

This order must be served on the landlord. If the landlord fails to comply with this order the tenants may file the order in the Provincial Court (Small Claims) and be 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: September 14, 2012.

Residential Tenancy Branch