



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord seeking a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the landlord entitled to a monetary order?

Is the landlord entitled to retain the security deposit?

Background and Evidence

The tenancy began on or about August 1, 2011 and was to be for a fixed term of one year. Rent in the amount of \$1775.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$887.50.

The tenant gave the following testimony; on May 13, 2012 gave the landlord written notice that she would be moving on June 16, 2012, left the unit very clean, disagrees with some of the claims made by the landlord, does acknowledge signing a one year fixed term tenancy, acknowledges that she signed the move in and move out condition inspection report, paid rent till June 30, 2012 but let the new tenant move in on June 22 as a gesture of goodwill, is a single mother of two teenage boys and feels that she should still get her security deposit returned.

The landlord gave the following testimony; a written move in and move out condition inspection report were conducted and signed by both parties, made every attempt to mitigate her losses, advertised the unit “all the time” and also ran an advertisement in the local paper, incurred costs to clean and repair some small items in the suite, is seeking to recover those costs as well as liquidated damages, never agreed to allow the tenant to break the lease early, re-rented the unit for July 1, 2012.

Analysis

The landlord is the sole applicant in this matter and bears the responsibility of proving her claim. I will address the landlord's claims as follows:

First Claim – The landlord is seeking \$408.80 for carpet and drape cleaning. The tenant disputes this portion of the landlord's claim stating that the carpets and drapes weren't clean upon move in although the move in condition report does not reflect the tenant's view. The landlord has provided a receipt along with the condition inspection report to support her claim. I find that the landlord is entitled to \$408.80

Second Claim – The landlord is seeking \$20.00 for the cleaning of the unit. The tenant agrees to this cost. The landlord provided a receipt to support this portion of her claim. I find that the landlord is entitled to \$20.00.

Third Claim – The landlord is seeking \$62.20 for the painting of 2 drawers and 3 shelves. The tenant agrees that this work was required however finds the cost to be “on the high side”. The landlord provided a receipt that outlines that four closets, two drawers, and three shelves were painted for \$134.40. The landlord feels that half that cost would be appropriate. I agree with the tenant that the amount sought by the landlord is not appropriate. I find that the landlord is entitled to \$25.00 for this portion of her claim.

Fourth Claim – The landlord is seeking \$118.00 for a fireplace cover. The landlord submitted a receipt for one that she purchased in the past but not the actual receipt for

the item being claimed. The tenant adamantly disputes this portion of the landlords claim. The landlord has not provided sufficient evidence to support this portion of her claim and I therefore dismiss this portion of her application.

Fifth Claim – The landlord is seeking \$800.00 for liquidated damages for the “breaking of the lease as was agreed in their tenancy agreement. The tenant disputes this portion of the landlords claim. The tenant does acknowledge that it was part of their agreement and that she did sign the document at the beginning of the tenancy as well as the move out condition inspection that reflected that the landlord would be seeking this cost however the tenant felt it wasn’t fair and that she never really turned her mind to it at the time of signing and didn’t consider the consequences. The landlord testified that the tenant gave her one month’s notice without any explanation and was taken by surprise. The landlord never agreed to waive the liquidation damages nor did she agree to the termination of the fixed term. I accept the testimony of the landlord that she made it clear on several occasions to the tenant of the liquidated damages clause and the consequences of “breaking the lease”. I find that the landlord is entitled to \$800.00.

Sixth Claim – The landlord is also entitled to recovery of the \$50.00 filing fee.

As for the monetary order, I find that the landlord has established a claim for \$1303.80. I order that the landlord retain the \$887.50 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$416.30. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order for \$416.30. The landlord may retain the security deposit.

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 11, 2012.

Residential Tenancy Branch