



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNSD FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both the landlord and the tenant participated in the conference call hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. I have reviewed all testimony and other evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on October 30, 2010. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$635. On October 30, 2010, the tenant and the landlord's agent conducted a move-in inspection and completed a condition inspection report.

On April 17, 2012, the landlord served the tenant with a notice to end tenancy for landlord's use. The notice indicated that the rental unit would be occupied by the landlord or a close family member. The effective date of the end of tenancy, as set out in the notice, was June 30, 2012. The tenant vacated the rental unit and completed cleaning by June 3, 2012.

Landlord's Evidence

At the end of the tenancy, there were quite a few dents left in walls, and the unit was not cleaned satisfactorily. The landlord had to paint three rooms and do cleaning in the unit and the yard. As a result, the landlord was not able to put the house up for sale as quickly as planned, and she lost potential revenue because the market dropped. The tenant refused to do a move-out inspection.

The landlord has applied for \$1510 for cleaning and painting, and \$127.50 in pro-rated rent for June 1 through 3, 2012, when the tenant was still cleaning. In support of her evidence, the landlord provided photographs of the rental unit and property, an invoice for window cleaning and a breakdown of the cleaning.

Tenant's Response

The tenant denied causing damage to the unit. The move-in condition inspection report discloses a lot of damage that existed at the time the tenancy began, including a note "walls/casings scuffed/chipped throughout." There is no indication of good/fair/poor condition of other items. The tenant did extensive yard work during the tenancy, and cleaned the unit at the end of the tenancy. The tenant provided photographs of the interior of the rental unit and the rental property, as well as a copy of the move-in condition inspection report.

The tenant asked the male landlord if he could have three extra days for cleaning, and the landlord agreed. He did not say anything about charging the tenant for the extra days. The tenant met twice with the male landlord to do a move-out inspection, but the landlord did not have a move-out inspection sheet. The tenant asked the landlord to provide a written condition inspection report, but the landlord did not do so.

Analysis

Upon consideration of the evidence, I find that the landlord is not entitled to any of her claim. The landlord did not provide sufficient evidence to establish that the damage to the rental unit was caused by the tenant during the tenancy or if it was pre-existing. The landlord's photographs did not depict notable dirtiness, and the landlord failed to provide a move-out inspection report or dated photographs. In regard to the three days of over-holding, I find that the landlord was intending to either occupy the rental unit or sell it, and she therefore did not suffer a loss of rental income. The landlord is therefore not entitled to compensation for those days.

As the landlord's claim was not successful, she is not entitled to recovery of the filing fee for the cost of her application.

Conclusion

The landlord's claim is dismissed.

The tenant is entitled to recovery of the security deposit. I grant the tenant an order under section 67 for the balance due of \$635. This order may be filed in the Small Claims 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: October 26, 2012.

Residential Tenancy Branch