



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MND, FF

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request for a monetary order for \$1711.02, a request to retain the full security deposit of \$500.00, and a request for recovery of the \$50.00 filing fee.

Background and Evidence

The applicant testified that:

- When the tenants vacated this rental unit, they left the rental unit in need of significant repairs and cleaning.
- At the beginning of the tenancy a short, hand written, inspection report was done and none of the damages that he is claiming for were listed on that report.
- They had to do a total of 25 hours of cleaning, and have the carpets cleaned, and had to do 15 hours of repairs.
- They also had significant material costs.
- As a result of the need for significant cleaning and repairs they were unable to re-rent the unit for the month following and lost the full rental revenue for the month of August 2012.

The applicant is therefore requesting a monetary order as follows:

damaged sliding door lock	\$11.20
Landfill receipts	\$15.00
Light bulbs	\$6.33
New lock	\$10.08
New light cover	\$15.62
Two window screens	\$71.68
Plywood	\$13.99
Varathane	\$24.91
Wall repair and cleaning supplies	\$29.61
Brush sets and masking tape	\$20.10
Assorted missing items	\$35.00
Carpet cleaning	\$150.00
Cleaning 25 hours X \$20.00	\$500.00
Drywall filler, sanding, and painting 20 hours X \$20.00	\$300.00
SOS scouring pads	\$2.25
Oven cleaner	\$5.25
Lost rental revenue for August 2012	\$1000.00
Filing fee	\$50.00
Total	\$2261.02

The applicant further requests an order to retain the full security deposit of \$500.00 towards this claim and requests that a monetary order be issued for the difference.

The respondents testified that:

- The landlord did not do the required move in inspection report, he briefly noted some items on a piece of paper however the report was not complete and was not even signed by the landlord, nor did he give them the opportunity to sign the report.
- There were many more things wrong with the rental unit than were listed on this handwritten inspection note, however the landlord stopped writing things down when they were pointed out and therefore this report is not complete.
- They caused no damage to this rental unit during the tenancy and they left the rental unit in the same condition as when they took possession.
- The landlord is also claiming for 25 hours of cleaning, however they did significant cleaning before leaving the rental unit and there is absolutely no way that there was still a need for 25 hours of cleaning.

- There was some cleaning still to be done and the female tenant intended to return to do that cleaning however when she arrived at the rental unit on the 27th of the month, four days before the end of the tenancy, she found that the landlord had entered the unit without the authority to do so and had already done the cleaning and started patching walls.
- Had the landlord not entered the unit without permission she would have completed any required cleaning and junk removal.
- This unit needed significant repairs when they moved into the unit however the landlord failed to do them at that time, and is taking this opportunity to do those repairs and attempt to charge them for those repairs.
- The landlord also failed to do a move out inspection report and did not contact us with a final opportunity to participate in a move-out inspection report, even though he had our phone numbers and addresses and could easily have done so.

The respondents therefore ask that this full claim be dismissed and that the landlord be ordered to return their full security deposit.

Analysis

It is my finding that the landlord has not met the burden of proving that the tenants caused any damages to this rental unit.

The Residential Tenancy Act requires the landlord do a move in inspection report at the beginning of the tenancy and that report must be in the approved form. In this case the landlord did not complete a proper move in inspection report in the approved form.

The handwritten inspection note provided by the landlord does not comply with the requirements of the Residential Tenancy Act, and is of little value. It has not been signed, nor have the tenants been given the opportunity to agree or disagree with the report.

Therefore it is my decision that it is just the landlords word against that of the tenants as to the condition of the rental unit at the beginning of the tenancy, and since the burden of proving a claim lies with the applicant the landlord has not met the burden of proving any of the claims for damages.

I also deny the landlords claim for cleaning and carpet cleaning. Under the Residential Tenancy Act a tenant is responsible to maintain "reasonable health, cleanliness and sanitary standards" throughout the premises. Therefore the landlord might be required

to do extra cleaning to bring the premises to the high standard that they would want for a new tenant. The landlord is not entitled to charge the former tenants for the extra cleaning. In this case it is my decision that the landlord has not shown that the tenants failed to meet the "reasonable" standard of cleanliness required.

Further, this tenancy did not end until July 31, 2012, however the landlord entered the rental unit and started cleaning on July 27, 2012. Therefore the landlord did not even allow the tenants the proper opportunity to complete the cleaning prior to starting cleaning himself. The tenants have testified that had the landlord not entered the rental unit, the cleaning would have been completed by the female tenant.

I therefore deny the landlords full claim for damages, cleaning, and lost rental revenue.

Further, by failing to complete the required move in inspection report, the landlord forfeited the right to claim against the security deposit for damages and cleaning, and therefore the security deposit should have been returned within 15 days of the end of the tenancy, or the date he received a forwarding address in writing from the tenants whichever is the later. If the landlord fails to comply with the 15 day time limit, the landlord is then required to pay double the security deposit. The evidence provided by the landlord clearly shows that he had the tenants forwarding addresses at the time he applied for dispute resolution.

The landlord has not returned the tenants security deposit, the tenants have not given the landlord any written permission to keep the security deposit, and the time limit is now well past.

Therefore the landlord must pay double the amount of the security deposit to the tenants.

The tenants paid a deposit of \$500.00 and therefore the landlord must pay \$1000.00 to the tenants.

Conclusion

The landlord's application is dismissed in full without leave to reapply and I have issued an order for the landlord to pay \$1000.00 to the tenants.

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 02, 2012.

Residential Tenancy Branch