



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MND, MNDC

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 \$4898.28, and a request for recovery of the \$50.00 filing fee.

Background and Evidence

This tenancy began on November 1, 2006 and at that time the tenants paid the security deposit of \$325.00.

This tenancy ended on July 31, 2012.

No move-in inspection report was done at the beginning of the tenancy, and no move-out inspection report was done at the end of the tenancy.

The landlords are claiming that the tenants caused extensive damages to the rental unit during the term of the tenancy, and left the rental unit in need of extensive cleaning when they vacated.

The landlords have also supplied witness letters in support of their claim.

The tenants deny causing any damage to the rental unit, claiming that a good portion of the damage already existed, some of the damage and garbage was caused by the landlord's agent, some of the damage was the result of the leaking roof, and any other damages were the result of normal wear and tear.

The tenants also claim that they left the rental unit reasonably clean; although they would admit they did not thoroughly clean and did leave a small amount of garbage behind.

The tenants have also supplied witness letters in support of their defense of the claim.

Analysis

It's unfortunate that the move-in inspection report and the move-out inspection reports required by the Residential Tenancy Act were not completed for this tenancy, because without them it is basically just the applicant's and their witnesses word against that of the respondents and their witnesses.

The burden of proving a claim however lies with the applicant and when it is just the applicant's word against that of the respondent, that burden of proof is not met.

It's obvious from the evidence provided that this rental unit is in need of significant repairs; however what is not obvious is whether or not that need for repairs is the result of any willful or negligent actions on the part of the tenants, or how much if any of the damages pre-existed the tenancy.

The landlords claim that these damages were either caused by the tenant's actions or negligence and therefore the tenant should be held liable for these damages. The tenants however claim that the damages either preexisted, or were the result of normal wear and tear. The claims of both sides in this case are equally compelling however since the burden of proving a claim lies with the applicant is my finding that the applicant has not met the burden of proving the claims for damages.

It is my finding however that the landlords have shown that this rental unit was left in need of a substantial amount of cleaning, and therefore I will be allowing a portion of the claim for cleaning. I will not however allow the full amount claimed as a portion of the cleaning may be the result of normal wear and tear, such as leaking roofs etc..

It is my decision therefore that I will only allow an amount equal to be security deposit plus interest held by the landlords to cover the costs of cleaning.

Further since I have only allow the small portion of the landlords claim, I will not allow the request for recovery of the filing fee

Conclusion

I hereby order that the landlords may retain the full security deposit of \$325.00 plus interest of \$10.11 for a total of \$335.11.

The remainder of the landlords claim is dismissed without leave to reapply.

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 31, 2012.

Residential Tenancy Branch