



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for damages to the unit and an order to retain the security deposit in partial satisfaction of the claim.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on August 15, 2012, a Canada post tracking number was provided as evidence of service, the tenant did not appear.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act.

The landlord's agent gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for damage to the unit?
Is the landlord entitled to retain all or part of the security deposit?
Is the landlord entitled to recover the filing fee?

Background and Evidence

The tenancy began on April 1, 2008. Rent in the amount of \$1,020.00 was payable on the first of each month. A security deposit of \$510.00 was paid by the tenant. The tenancy ended on July 31, 2012.

The landlord's agent testified the tenant is not in rent arrears as indicated in the application.

The landlord's agent testified that the tenant consent in writing that they were allowed to deduct charges from the security deposit in the amount of \$201.60. Filed in evidence is a copy of that agreement.

The landlord's agent testified they have returned to the tenant a portion the security deposit in the amount of \$110.46.

The landlord's agent testified that the tenant did not agree to the charge of painting the rental unit. The landlord's agent stated due to the tenant smoking in the rental unit the unit was required to be painted. The landlord seeks to recover the amount of \$228.00. Filed in evidence is a copy of the invoice for painting.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Under the Residential Policy Guideline #40, if an item was damaged by the tenant, the age of the item may be considered when calculating the tenant's responsibility for the cost of replacement.

As, I have determined that the interior paint had a useful life span of four years as set-out in the guidelines, and the tenancy exceeded four years old. I find the useful life span of the paint had been fully depreciated. Therefore, the tenant is not responsible to pay any cost for having the rental unit painted.

As a result, the landlord is not entitled to compensation for painting the rental unit and the landlord is not entitled to retain the balance of the security deposit.

The landlord's application is dismissed. The landlord is not entitled to recover the cost of filing.

Tenant's security deposit plus interest	\$516.06
Amount charges consented to by tenant	(\$201.60)
Balance due to tenant	\$204.00

As a result, I grant the tenant a formal order for the balance due of the security deposit. Should the landlord fail to comply with this order, the order may be filed in the small claims division of the Provincial Court and enforced as an order of that court.

Conclusion

The landlord's application is dismissed.

The tenant is granted a monetary order for the balance due of his security deposit. Should the landlord fail to comply with this order.

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