



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MND, FF

Introduction

These two hearings dealt with an Application for Dispute Resolution by the Landlord for a monetary order for compensation under the Act and the tenancy agreement for cleaning or damages, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Landlord appeared at the two hearings. He gave affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified he served the Tenants with the Notice of Hearing and Application by sending it registered mail on July 19, 2012, to a forwarding address provided by the Tenants, and by personal service to one of the Tenants on July 20, 2012. Despite this the Tenants did not appear at the hearing. I find the Tenants were duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Issue

The first hearing occurred on October 1, 2012, and was adjourned to November 6, 2012, in order for the Landlord to resubmit evidence. The Tenants were sent a notice of the reconvened hearing, but failed to attend the second hearing.

Issue(s) to be Decided

Is the Landlord entitled to monetary compensation from the Tenants?

Background and Evidence

The Landlord is claiming against the Tenants for the replacement of a carpet he alleges they damaged in the living room of the rental unit.

On or about May 24, 2012, the Landlord and the Tenants performed an incoming condition inspection report at the rental unit. There is no notation regarding the carpet and both parties agreed at the outset on the condition of the rental unit in this report.

On August 31, 2012, the Landlord and one of the Tenants were to perform an outgoing condition inspection report. The Landlord found a large stain on the living room carpet. The Landlord alleges that the Tenants used bleach or another form of cleaner to clean an area of the carpet, which removed the colour in a large portion of the carpet. The stain and colour removal apparently went through to the underlay.

The Landlord testified that the Tenant refused to acknowledge the carpet damaged occurred due to them. The Tenant apparently told the Landlord they had only used soap and water to clean the carpet stain, then refused to sign the outgoing condition inspection report and left the rental unit.

In evidence the Landlord submitted a letter from the renter who lived in the rental unit immediately before these Tenants. The prior renter sets out in his letter that although the carpet was not in perfect condition at the end of his tenancy, it did not have the large stains or bleached area.

The Landlord testified that the carpet is approximately five years old. The Landlord claims \$1,679.28 for the replacement of the carpet.

In evidence the Landlord has submitted photographs, a copy of an invoice for the carpet, the condition inspection reports, and correspondence from the previous renter.

Analysis

Based on the uncontradicted testimony and evidence, and on a balance of probabilities, I find the Tenants have breached section 37 of the Act and the tenancy agreement, by failing to return the rental unit to the Landlord undamaged, except for reasonable wear and tear.

I find the Tenants damaged the Landlord's carpet and the Landlord has suffered a loss due to their breach of the Act.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the Landlord has established a claim for replacing the carpet. Nevertheless, despite the Tenants damages to the carpet, the Landlord is not entitled to be unjustly enriched by their breach by getting a brand new carpet in exchange for a five year old carpet.

Under Policy Guideline 40 to the Act, the useful life expectancy of a carpet is 10 years. As the rental unit carpet was five years old, I allow the Landlord half the replacement cost of \$1,679.28, in the amount of \$839.64

Therefore, I find that the Landlord has established a total monetary claim of **\$889.64** comprised of the above described amount and the \$50.00 fee paid for this application.

I order that the Landlord may retain the security deposit of **\$482.50** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$407.14**.

This order must be served on the Tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Landlord has established that the Tenants damaged the carpet in the rental unit. Due to the age of the carpet, the Landlord is entitled to half the replacement cost. The Landlord may keep the security deposit and has a monetary order for the balance which may be enforced in the Provincial Court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: November 23, 2012.

Residential Tenancy Branch