

DECISION

Dispute Codes MNSD, FF

Introduction

This is an application filed by the Tenant for a monetary order for the return of part of the security deposit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. The Landlord did not submit any documentary evidence. As both parties have attended the hearing and have confirmed receipt of the submitted evidence of the Tenant, I am satisfied that both parties have been properly served for this hearing.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Background, Evidence and Analysis

This Tenancy began on December 1, 2011 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$925.00 payable on or before the 1st day of each month. A security deposit of \$460.00 was paid.

The Tenant seeks recovery of \$98.56 that the Landlord withheld from the return of the security deposit for professional carpet cleaning. The Landlord states that the carpet was sticky from the Tenant's child that required steam cleaning. The Tenant disputes this stating that the carpet was clean.

The hearing the onus or burden of proof is on the party making the claim, in this case the Landlord is responsible as she has made the claim of a dirty carpet. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. The Tenant has established a claim to recovery the \$98.56 withheld by the Landlord.

The Tenant is also entitled to recovery of the \$50.00 filing fee. The Tenant is granted a monetary order for the balance due of \$148.56. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Tenant is granted a monetary order for \$148.56.

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: December 11, 2012.

Residential Tenancy Branch