



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND FF

Introduction

This hearing dealt with an application by the landlord for a monetary order for damage to the rental unit.

The hearing first convened on January 25, 2013. On that date, the landlord and an agent for the tenant called into the teleconference hearing. The agent for the tenant requested an adjournment of the hearing, on the basis that the landlord did not submit her evidence at the same time as the application, and the tenant needed more time to prepare for the hearing. I granted the adjournment.

The hearing reconvened on February 21, 2013. On that date, the landlord and the tenant participated in the teleconference hearing.

I have reviewed all testimony and other evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on August 1, 2009. The landlord and the tenant carried out a joint move-in inspection and completed a condition inspection report on that date. The addendum to the tenancy agreement originally indicated that no pets would be allowed on the premises; however, the landlord and the tenant initialled a change to that clause, which reads "Additional pets to be discussed and agreed upon."

The tenancy ended at the end of April 2012. The landlord and the tenant carried out a joint move-out inspection and completed a condition inspection report on April 29, 2012. The landlord found no visible damage to the rental unit at that time. The unit was re-rented on August 1, 2012.

Landlord's Evidence

The landlord stated that the new tenants contacted the landlord within the first week of their tenancy in August 2012 to complain of a strong odour of urine in the rental unit. The landlord attempted to remove the odour through carpet cleaning and treatment, but it was not effective. The landlord had to replace the flooring and compensate the new tenants with reimbursement of their rent for the month of August 2012. The landlord believed that the odour did not become apparent until the weather warmed up significantly.

The landlord stated that before the tenants occupied the rental unit in August 2009, she lived in the house. While she lived there, she had one dog that lived outside. The landlord stated that when she amended the clause in the addendum regarding pets, she verbally agreed that the tenants could have their one dog only. The landlord also stated that the carpets that were replaced were new in July 2003.

The landlord has claimed the following amounts:

- 1) \$431.78 for carpet cleaning and treatment
- 2) \$208.70 for sealant to prevent further cat urine odour
- 3) \$7044.16 for flooring replacement – carpeting upstairs and laminate downstairs
- 4) \$2000 for rent reimbursement for new tenants for August 2012

In support of her application, the landlord provided receipts and photographs that show areas outlined in chalk where the urine stains were found under the carpets. She also submitted a letter from the new tenants, in which they described the urine odours and damage that they discovered.

Tenants' Response

The tenant acknowledged in the hearing that they had one dog and three cats while they resided in the rental unit. The male tenant stated in the hearing that while he was not present when the landlord and the female tenant amended the pet clause, the female tenant told the male tenant that the landlord had agreed to allow all of the tenants' pets. The male tenant further stated in the hearing that the landlord attended the rental unit in December 2009, and had to be aware of all of the tenants' pets at that time.

The tenant stated that there were no issues with pet urine odours at the time the tenancy ended, and he did not know how the issue did not arise until August. The tenant stated that their pets were very well house-trained, and they may have had a cat urinate on the carpets but only one or two times. The landlord had a dog previous to the tenancy, and the landlord's evidence doesn't clearly point to all the damage being done by the tenants' pets.

Analysis

Upon consideration of the evidence, I find as follows. The evidence regarding the pet clause in the addendum is not relevant to the landlord's monetary claim. If the tenants breached the pet clause by having more pets than permitted, the remedy during the tenancy would have been for the landlord to seek to end the tenancy by serving the tenants a notice to end tenancy for breach of a material term.

I find the evidence shows, on a balance of probabilities, that the tenants' pets likely did cause the damage to the rental unit. I accept the landlord's testimony that she had one outside dog while she resided in the rental unit. The move-in condition inspection report did not find or disclose any urine damage at the beginning of the tenancy. The tenant acknowledged that they had a dog and three cats in the unit, and the tenant was aware of one or two occasions that their cat(s) had urinated on the carpet. The tenant stated that he did not know how the issue of the odour did not arise until August 2012, but he did not dispute that the damage existed. I find it plausible that the odour did not become noticeable until the weather was warmer.

I find that the landlord is entitled to the amounts claimed for carpet cleaning and treatment, and for sealant. The landlord is not entitled to the full amount claimed for replacing the carpeting. The carpets were nine years old at the time they were replaced. The Residential Tenancy Policy Guidelines state that the average useful life of carpeting is 10 years. The value of the carpets in the rental unit therefore depreciated 90 percent. The landlord is therefore only entitled to 10 percent of the amount claimed for flooring replacement, in the amount of \$704.42.

I find that the landlord is not entitled to the amount claimed for reimbursement of the new tenants' rent, as the landlord did not provide sufficient evidence that she took reasonable steps to mitigate this loss. The landlord did not provide evidence that the odour was not present when she conducted the move-in inspection with the new tenants; nor did she provide evidence of the time period that the new tenants needed to vacate the unit or that the landlord acted expediently to remedy the odour issue.

As the landlord's claim was only partially successful, I find that she is entitled to partial recovery of her filing fee, in the amount of \$50.

Conclusion

The landlord is entitled to \$1394.90. The remainder of the landlord's application is dismissed.

I grant the landlord an order under section 67 for the balance due of \$1394.90. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: February 25, 2013

Residential Tenancy Branch

