



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Gramercy Enterprises Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNSD, FF

Introduction

This hearing was convened in response to an application by the tenant for a monetary order for the return of the security deposit and compensation under section 38.

Both, the tenant and the landlord (applicant and respondent) were represented at today's hearing and participated with their testimony. Both parties provided prior document submissions to the hearing. The parties acknowledged receiving the evidence of the other.

Issue(s) to be Decided

Is the tenant entitled to the monetary amount claimed?

Background and Evidence

The undisputed facts before me, as testified by both parties, are as follows.

The tenancy began on March 01, 2012 and ended on November 30, 2012 as a written tenancy agreement. Rent was \$1200.00 per month. At the outset of the tenancy the landlord collected a security deposit and pet damage deposit in the sum of \$1200.00. The parties conducted move in and move out inspections in accordance with the Act with the requisite inspection reports completed. In addition, the tenant also provided the landlord with their forwarding address at the time of the move out inspection. On December 18, 2012 the tenant received a refund of their deposits in the amount of \$61.00.

The parties agree the tenant was responsible for a quantum of damage, or charges, consisting of *some general cleaning, carpet replacement due to pet damage, and*

drapery cleaning (the later as per a term of the tenancy agreement upon vacating). In addition, the landlord claims they charged the tenant for the *treatment of bed bugs*; however, they also acknowledge that pest control practices are not typically the responsibility of tenants, and that treatment for bed bugs is not the responsibility of tenants. Although the tenant agrees they would be charged for some cleaning, the tenant and landlord disagree on the landlord's amount of \$324.00 for cleaning. The evidence does not reveal the landlord charged the tenant for anything more than the aforementioned items, all in the sum amount of \$1139.00.

It must be noted that the condition inspection report contains the tenant's signature in Box 2 of the last page, although Box 1 is not completed. Despite the contents of Box Z, the tenant testified they had agreed by their signature in Box 2 that the landlord would retain a portion of their deposits, but that they did not expect the landlord to retain as much as they did. The tenant testified they agreed to some deduction in principle as they did not have benefit of an itemized list of costs at the time they signed Box 2, and in addition they were agitated by the inspection event. The landlord testified that at the time of the inspection they were not aware of the costs required to remedy some of the items identified in the inspection. The landlord argues the tenant signature in Box 2, allowed the landlord to deduct from it what they determined appropriate in concert with the results of the condition inspection report.

Analysis

On preponderance of the relevant evidence and the testimony of both parties I have reached a decision.

I find the Condition Inspection Report inclusions in the END OF TENANCY section of page 3, are confusing. While it is clear the tenant signed Box 2, they did not complete Box 1 – electing if they did or did not agree with the aforementioned conditions of the report. I find that completion of Box 1 is a necessary prerequisite to determine the evidentiary weight of a signature in Box 2. I find it was incumbent on the tenant to be specific as to what costs they were agreeing. However, I also accept the parties' testimony that neither was aware of the costs to remedy the deficiencies found during the move out inspection. As a result, I find both parties responsible for the ensuing confusion, and I accept the landlord's reliance on the tenant's signature as sufficiently reasonable for them to not file for dispute resolution within 15 days in accordance with Section 38(1) of the Act to seek retention of the deposits. As a result of all the above, I find the tenant is not entitled to compensation of double their deposits in accordance with Section 38(6) of the Act. However, the tenant disputes the landlord's entitlement to the amount they withheld from the deposits, therefore the burden of proof shifts to the landlord to prove their entitlement to it.

I accept the evidence and testimony of both parties that the landlord is entitled to their costs for *carpet replacement*, *drapery cleaning* and a quantum for *cleaning*. I find the landlord should not have charged the tenant for the treatment of bed bugs. I further find the evidence of the landlord is not sufficient to support a claim for 12 hours of cleaning. As a result of all the above, I find the tenant is entitled to a return of \$250.00 for a bed bug treatment, and 1/3 of the claimed cleaning costs in the amount of \$108.00, for a sum entitlement of **\$358.00**.

Conclusion

I grant the tenant an Order under section 67 for the amount of **\$358.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an order of that Court.

This Decision is final and binding on both parties.

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: March 25, 2013

Residential Tenancy Branch