



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNR

Introduction

This is an application filed by the Landlord for a monetary order for damage to the unit, site or property, for money owed or compensation for damage or loss and for unpaid rent or utilities.

Both parties attended the hearing by conference call and gave testimony. The Landlord has submitted a late evidence package received which the Tenant has confirmed receiving. The Tenant has not provided any documentary evidence. As both parties have attended and have confirmed receipt of the Landlord's notice of hearing package and the submitted evidence, I am satisfied that both parties have been properly served.

During the hearing the Tenant provided a new forwarding address for delivery of the decision. The file shall be updated with the new address.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Background and Evidence

This Tenancy began on August 28, 2012 on a fixed term tenancy ending on February 28, 2013 and then thereafter on a month to month as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$1,250.00 payable on the 2nd day of each month and a security deposit of \$625.00 was paid on August 27, 2012.

Both parties agreed that the Tenancy ended at the end of January 2013, but neither party is sure of the date. Both parties also agreed that the Tenancy was mutually ended when the Landlord received the Tenant's email on January 7, 2013 to vacate the rental unit at the end of January 2013. The Tenant states that she informed the Landlord

verbally on January 5, 2013. Both parties also agreed that no condition inspection report for the move-in or the move-out were completed.

The Landlord states that the Tenants vacated the rental unit and gave less than a months notice to end the tenancy. The Landlord states that the rental unit was not rentable when he took possession of the rental unit. The Landlord seeks a monetary order for \$3,060.00 which consists of \$1,250.00 in loss of rental income for February 2013, \$800.00 for the replacement of two armours which the Tenants removed from the rental, \$200.00 for a missing wheelbarrow, \$30.00 for a rake, \$400.00 for the replacement of flooring and \$320.00 for the labour for the yard work and flooring installation. The Landlord has provided a detailed write-up of his monetary claim (\$3,115.18) stating that it is based upon estimates and that most of the work has not yet been done. The Landlord states that he was posted the rental unit on for rent on January 8, 2013 on craigslist, but was only able to have 1 showing, but was not able to re-rent the unit until March 1, 2013.

Analysis

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

I find that the Landlord has failed to provide sufficient evidence to satisfy me of the monetary claim. The Landlord has stated that the rental unit was not rentable due to damage caused by the Tenants, but has failed to provide any details other than that the carpet needed to be replaced due to a stain. The Landlord has also stated in his direct testimony that most of the items being claimed for have not been replaced or fixed. The Landlord has not yet replaced the flooring or provided any invoices or receipts for an actual amount of any repairs or costs. The Landlord has also agreed that the Tenancy ended mutually when he received the Tenants notice to vacate by email. The Landlord has failed to provide sufficient evidence of damage or that it occurred due to the actions of the Tenants. The Landlord has failed to provide any details of an actual amount

required for compensation as he has stated that the work has not yet been done. The Landlord's monetary claim is dismissed without leave to reapply.

Conclusion

The Landlord's claim is dismissed.

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: April 25, 2013

Residential Tenancy Branch

