



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Top Producers Realty Ltd. Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The Landlord applied on February 21, 2013 for:

1. A Monetary Order for compensation - Section 67;
2. An Order to retain all or part of the security deposit – Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenant applied on March 20, 2013 for:

1. An Order for the return of double the security deposit – Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Tenant entitled to return of double the security deposit?

Are the Parties entitled to recovery of their respective filing fees?

Background and Evidence

The tenancy started on May 15, 2012. At the outset of the tenancy the Landlord collected \$425.00 as a security deposit and \$425.00 as a pet deposit. The Landlord

states that the Tenant moved out of the unit on February 3, 2013 and did not pay rent for February 1 to 3, 2013 inclusive. The Landlord claims \$91.05 for unpaid rent. The Tenant states that she was moved out of the unit on February 2, 2013 at 8:00 p.m. but that the move-out inspection could not be conducted that evening due to the Landlord's inability to attend at that time. The Landlord states that the move-out inspection was scheduled for earlier in the day on February 2, 2013 and that when the Landlord appeared at 6 p.m. there were still some odds and ends and no cleaning was done yet so it was agreed to conduct the inspection the next day.

The Parties mutually conducted a move-in inspection and a move-out inspection. The Tenant provided a forwarding address in writing on February 14, 2013 and again on March 1, 2013. The Tenant claims return of double the security deposit.

The Landlord states that the Tenant failed to clean the unit and claims as follows:

- \$75.00 for the cost of cleaning the carpet. The Landlord states that the tenancy agreement provides for professional cleaning of the carpets and that the Tenant left the carpet stained and unclean. The Landlord provided photos of the carpet. The Tenant states that the carpets were cleaned at move-out and that upon return to the unit the next day for the inspection the Tenant noticed step marks so the Tenant used a hand held spot cleaner for these foot prints. The Tenant states that the areas in the photos are of these damp marks and not stains;
- \$75.00 for the cost of cleaning the unit. The Landlord provided photos and an itemized cleaning invoice indicating cleaning to the floors, kitchen, including stove and fridge, walls, bathroom and cobwebs. The Landlord states that the unit was entirely filthy and there were cobwebs all over. The Landlord did not provide photos of the cobwebs, the fridge or the bathroom. The Tenant states that the unit was cleaned at move-out, including the bathroom and kitchen. The Tenant states that the stove and oven were not clean at move-in. The Landlord agrees that the stove was not clean at move-in but states that it was more dirty at move-out. The Tenant states that the only item raised by the Landlord at the

move-out inspection was the unclean plastic blinds and that the Tenant cleaned these while the Landlord watched. The Landlord agrees that the Tenant cleaned those blinds but states that the job was not done well enough.

Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Section 21 of the Regulations provides that a duly completed inspection report is evidence of the condition of the rental property, unless either the landlord or tenant has a preponderance of evidence to the contrary.

Given the evidence of the Landlord that there were only a few items remaining at 6:00 p.m. on February 2, I accept the Tenant's evidence that the move-out of the unit was completed by 8:00 p.m. I do not find that the rescheduling of the move-out inspection is good evidence of when the Tenant vacated the unit as I find this only to be evidence of inconvenience for the inspection time. I therefore find that the Landlord has substantiated **\$60.70** for unpaid rent for February 1 and 2, 2013.

Noting that the photos support the Tenant's evidence in relation to the cleaning of the carpet, I find that the Landlord has not substantiated that the Tenant left the carpet unclean and I dismiss this claim. Given the move-in condition report that the stove was not cleaned at move-in but noting the photos of the oven at move in, I find that the Tenant left the stove reasonably clean but not the oven. I find therefore that the Landlord has substantiated a 1/3 portion of the costs claimed for cleaning the stove, oven and fridge in the amount of **\$10.00**. Considering the Tenant's evidence that the unit was cleaned and noting that no photos were provided of cobwebs, the bathroom, the fridge or the kitchen, I find that the Landlord has not substantiated any claim in relation to these items. I do not find that the floors required any further cleaning as I accept the evidence that the floors were cleaned and note that although the photos show some marks, these could easily be remnants left from the traffic the next day to inspect the unit. I therefore dismiss the costs claimed for the floors. Given the photos of the wall, I

find that the Landlord has substantiated the cost of **\$10.00** as claimed. As the Landlord's application has met with minimal success, I decline to award recovery of the filing fee.

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. As the Landlord made its application within 15 days of receipt of the forwarding address I find that the Landlord is not required to return double the security deposit and I dismiss the Tenant's application. I order the Landlord to retain its entitlement of **\$80.70** from the combined pet and security deposit of **\$850.00** plus zero interest and to return the remaining amount of **\$769.30** to the Tenant forthwith.

Conclusion

I order that the Landlord retain \$80.70 from the **deposit** and interest of \$850.00 in full satisfaction of the claim. **I grant** the Tenant an order under Section 67 of the Act for the balance due of **\$769.30**. If necessary, 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: May 21, 2013

Residential Tenancy Branch