



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNSD MNDC FF

Introduction

This hearing dealt with applications by the landlord and the tenant. The landlord applied for monetary compensation and an order to retain the security deposit in partial compensation of the monetary claim. The tenant applied for double recovery of the security deposit. The landlord and the tenant participated in the teleconference hearing on both scheduled dates.

The hearing first convened on May 31, 2013. On that date, due to an administrative error I was not aware of the tenant's application. Both the landlord and the tenant had submitted documentary evidence contained in the file for the tenant's application. I therefore adjourned the hearing. The hearing reconvened on July 8, 2013. The landlord and the tenant gave testimony 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?
Is the tenant entitled to double recovery of the security deposit?

Background and Evidence

The tenancy began on May 28, 2009. At the outset of the tenancy, the tenants paid the landlord a security deposit of \$740. On May 28, 2009 the tenants and an agent of the landlord carried out a joint move-in inspection and completed a condition inspection report. The parties agreed in the hearing that the rental unit was new at the outset of the tenancy. The tenants vacated the rental unit on January 30, 2013. The landlord and the tenants did not complete a move-out condition inspection report. The landlord confirmed

that the rental unit was re-rented beginning February 1, 2013. The tenants sent the landlord their forwarding address in writing on February 14, 2013, and the landlord acknowledged receiving the tenants' forwarding address on February 17, 2013. The landlord filed his application to keep the security deposit in partial compensation of his monetary claim on March 1, 2013.

Landlord's Evidence

The landlord stated that he stopped by the rental unit on January 30, 2013, and the tenants had not completed moving or cleaning the rental unit. On February 12, 2013, the landlord spoke to the tenant on the phone, and she agreed to meet with the landlord the next day to do the move-out inspection. On February 13, 2013, the landlord emailed the tenants a Notice of Final Opportunity to Schedule a Condition Inspection Report on that day, and the female tenant responded by text message on the same day, agreeing to meet with the landlord at 4:30 p.m. Later in the day, the tenant informed the landlord by text and email that she would not be meeting with the landlord to complete the condition inspection report. The landlord submitted that because the tenants failed to complete the condition inspection report, they were not entitled to recovery of their security deposit.

The landlord has claimed \$2130 plus \$740 for the security deposit, for damage to the laminate floor and carpeting. The landlord stated that there were several ink stains on the carpet and considerable damage done to the laminate flooring. The landlord had not yet done the repair work, but he estimated that it could cost \$2000 to replace the stained carpets and \$2000 to repair the laminate flooring. The landlord submitted photographs of the ink stains on the carpet and a gouge in one section of the laminate flooring.

The tenant's response to the landlord's claim was as follows. The tenant stated that on January 30, 2013, the landlord met with the tenants at the unit to do a move-out inspection. However, the landlord did not bring any paperwork with him. The tenants returned all keys to the landlord at that time.

The tenant stated that the damage to the laminate flooring existed at the beginning of the tenancy, and the landlord's agent had noted it in an amended copy of the move-in condition inspection report. The tenant did not have a copy of that document. The tenant further stated that although the unit was new, it was poorly built, and any other damage to the unit was normal wear and tear over four and a half years. The tenant questioned the landlord's estimates for repairs.

Analysis

Landlord's Claim

I find that the landlord did not provide sufficient evidence to support his claim. I accept the landlord's evidence that the tenants likely damaged the laminate flooring during their tenancy, but the landlord did not provide professional estimates for repairs or incur the costs to do the repairs. I find that the tenants did not extinguish their right to claim the security deposit, as I accept the tenants' evidence that the landlord did do a move-out inspection on January 30, 2013; furthermore, the landlord could not have carried out a move-out inspection after a new tenancy began. The landlord's application is therefore dismissed.

Tenants' Claim

I find that as the landlord received the tenants' forwarding address in writing on February 17, 2013 and he filed his application to keep the deposit on March 1, 2013, the tenants are not entitled to double recovery of their security deposit.

Filing Fees

As neither claim was fully successful, I decline to award either party recovery of the filing fees for the cost of their application.

Conclusion

The landlord's application is dismissed.

The tenants are entitled to return of the base amount of their security deposit. I grant the tenants an order under section 67 for the balance due of \$740. 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: July 18, 2013

Residential Tenancy Branch