



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC; O

Introduction

This is the Landlords' application for compensation for damage or loss under the Act, regulation or tenancy agreement and for other relief.

The Landlord AM gave affirmed testimony at the Hearing.

AM testified that the Notice of Hearing documents were sent to the Tenant, via registered mail, to the Tenant's forwarding address on June 19, 2013. AM testified that the registered documents were returned to the Landlords, "refused by addressee". The Landlords provided a copy of the registered mail receipt and the returned envelope in evidence.

Based on the AM's affirmed testimony and the documentary evidence provided by the Landlords, I am satisfied that the Tenant was duly served with the Notice of Hearing documents by registered mail. Refusal to accept delivery of documents does not change the service provisions of Section 89 of the Act. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his absence.

Preliminary Matter

The Landlords' Application for Dispute Resolution indicates that they are seeking "other" relief; however, they did not provide sufficient details in their Application with respect to what other relief they were seeking. When a party seeks "other" relief, the Application for Dispute Resolution requires the Applicant to provide details in the "Details of Dispute Resolution" section. No details were provided. Therefore this portion of the Landlords' application is dismissed.

Issues to be Decided

- Are the Landlords entitled to a monetary award for damages to the rental unit?

Background and Evidence

AM gave the following testimony:

A copy of the tenancy agreement was provided in evidence. This tenancy began on April 13, 2012 and ended on May 31, 2013. Monthly rent was \$2,000.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$1,000.00 on April 3, 2012.

On June 1, 2013, AM and the Tenant met at the rental unit to perform an inspection. A copy of the Condition Inspection Report was provided in evidence. The Tenant signed the Condition Inspection Report and provided his forwarding address in writing. AM did not sign the Condition Inspection Report because he is only an agent of the Landlord's and not the Landlord.

The Tenant told AM that the Landlord had to return the security deposit within 15 days, or the Landlord would have to pay double the amount of the security deposit to the Tenant. AM was in a hurry, so he did not look too closely at the rental unit during the inspection. AM returned the security deposit to the Tenant.

20 minutes after the Tenant left the rental unit, AM realized that there were curtains and a rug missing as well as some damage to the rental unit.

The Landlords seek a monetary award, calculated as follows:

Cost to replace burned out stove element	\$139.75
Labour to replace element (estimate)	\$65.00
Cost to shampoo carpets	\$265.44
Cost to replace missing curtains and drapes (estimate)	\$189.00
Cost to replace damaged window screen (estimate)	\$45.00
Cost to replace missing clothes hangers (estimate)	\$55.00
Cost to repair carpet (estimate)	\$85.00
Cost to repair drawer (estimate)	\$35.00
Cost to replace light and sprinkler head (estimate)	\$45.00
Cost to replace missing area rug (estimate)	\$115.00
Cost to clean bathroom (estimate)	<u>\$35.00</u>
TOTAL	\$1,074.19

AM stated that the stove was 2 or 3 years old and that he didn't know the element was burned out until after the Tenant left the rental unit after the inspection. The Landlords provided photographs and receipts for the cost of the stove element and shampooing the carpets in evidence.

Analysis

As I advised AM, the Landlord or the Tenant may be represented by an agent for the purposes of completing a Condition Inspection Report and that he could have signed the Report on behalf of the Landlord.

In dispute resolution proceedings, a condition inspection report completed in accordance with the requirements of the Act and the regulation is evidence of the state of repair and condition of the rental unit on the date of the inspection, unless the landlord or tenant has a preponderance of evidence to the contrary. In this case, the Condition Inspection Report indicates that all of the items were in the same condition at the end of the tenancy as they were at the beginning of the tenancy.

I find it probable that missing curtains, torn and dirty carpets and a missing area rug would all have been visible to AM, even if he was in a hurry. I find that AM did not have a reasonable explanation with respect to why he did not notice that these things were missing, broken or damaged and that he did not provide sufficient evidence to refute the Condition Inspection Report.

Tenants are not required to repair or replace damage caused by normal wear and tear. I find that the Landlords did not provide sufficient evidence that the Tenant willfully damaged the stove element, or that it was damaged due to the neglect of the Tenant.

In addition, the Landlords did not provide sufficient evidence to support the estimates that they provided for most of the items.

For the above reasons, I dismiss the Landlords' Application without leave to reapply.

The Landlords were strongly advised to make themselves aware of the provisions of the Act and in particular, Sections 23, 24, 35, 36 and 38 of the Act.

Conclusion

The Landlord's Application is **dismissed without leave to reapply**.

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 30, 2013

Residential Tenancy Branch