



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding YORKSON INVESTMENT CO. LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: *MND, MNDC, MNSD, FF.*

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for a monetary order for the cost of cleaning and replacing the carpet and for the filing fee. The tenant applied for the return of double the security, pet and key deposits. At the hearing the tenant requested that his application be amended to include the recovery of the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issues to be decided

- Is the landlord entitled to a monetary order for the cost of cleaning and replacing the carpet and for the filing fee?
- Did the landlord make application to retain the deposits in a timely manner?
- Is the tenant entitled to the return of double the security, pet and key deposits and to the recovery of the filing fee?

Background and Evidence

The tenancy started on November 01, 2009 and ended on April 30, 2013. The monthly rent at the end of the tenancy was \$1,305.00 due on the first of each month. The tenant paid a security deposit of \$600.00, a pet deposit of \$600.00 and a key deposit of \$60.00. The tenant provided his forwarding address to the landlord prior to moving out.

A move out inspection was conducted on April 30, 2013 and the parties came to an agreement that there were some red stains on the carpet that would have to be removed by a professional carpet cleaner. The tenant agreed to a deduction of \$90.00 for this service.

The tenant testified that the resident manager assured him that the deposits would be returned and the tenant waited for 15 days before he contacted the landlord. The

landlord informed him that there were other issues with the carpet and that he had made application for dispute resolution.

The landlord filed a copy of an invoice that he paid for cleaning the carpet on May 01, 2013, in the amount of \$73.50. There is a note on the invoice that reads "*red stains found in the living room from furniture and dog hair*".

During the hearing the landlord stated that on May 06, 2013, he received a note from the new tenant that the carpet had dog hair embedded in it. The resident manager attempted to vacuum the carpet with a commercial grade vacuum cleaner but was unsuccessful in removing the hair. The landlord did not contact the tenant but decided to replace the carpet and did so on May 16, 2013.

The landlord is claiming the cost of cleaning the carpet (\$73.50), the cost of replacing the carpet (\$1293.00) plus the filing fee (450.00) for a total of \$1,416.50. The tenant is claiming the return of double the deposits (\$2,520.00) plus the filing fee (\$50.00) minus the agreed upon amount of \$90.00 for a net claim of \$2,480.00.

Analysis

Landlord's application:

In this case the parties agreed to a deduction of \$90.00 from the deposit. The landlord stated that the presence of dog hair was not noticed during the move out inspection and was identified by the new tenant. The landlord failed to inform the tenant of this development and failed to give the tenant an opportunity to fix it.

The landlord stated that the dog hair could not be removed but did not file any documentation to support this. The invoice mentioned the presence of dog hair but did not state whether it was removed, not removed or could not be removed. In any event the landlord should have contacted the tenant to resolve the problem but instead decided to replace the carpet, without consulting with the tenant.

The landlord has filed the move out inspection report as evidence of the damage. The move out inspection is an opportunity for the tenant and landlord to identify damage and come to an agreement on any deductions that can be made to the security deposit. The inspection should be conducted diligently using a flashlight if necessary as it is the only opportunity to identify damage that the tenant is responsible for.

Based on the move out inspection report and the testimony of both parties, I find that the landlord did not notice the presence of dog hair during the inspection and that the parties agreed to a deduction of \$90.00. Therefore I find that landlord is entitled to

\$90.00. The landlord did not consult with the tenant prior to replacing the carpet. Therefore the tenant is not liable for the cost of doing so and accordingly the landlord's claim for \$1,293.00 is dismissed. Overall the landlord has established a claim of \$90.00 which is a fraction of his original claim and therefore the landlord must bear the cost of filing this application.

Tenant's application:

The tenant has applied for the return of double the security pet and key deposits. Section 38 of the Residential Tenancy Act requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the deposits or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the deposits.

The tenancy ended on April 30, 2013 and the landlord made application to keep the deposits within a timely manner, on May 15, 2013. Therefore, I find that the tenant is not entitled to the return of double the deposits. Since the tenant has not proven his claim, he must bear the cost of filing his application.

The landlord has in his possession \$1,260.00 in security, pet and key deposits. I order that the landlord retain the \$90.00 from the deposits and return the balance to the tenant. I grant the tenant an order under section 67 of the *Residential Tenancy Act* for the balance due of \$1,170.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of \$1,170.00.

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: August 15, 2013

Residential Tenancy Branch