



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for unpaid rent or utilities; for an Order permitting the landlord to keep all or part of the tenant's security and pet deposit; and to recover the filing fee from the tenant for the cost of this application.

The tenant and landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The landlord provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The tenant confirmed receipt of evidence. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent?
- Is the landlord entitled to keep the security and pet deposit?

Background and Evidence

The parties agree that this tenancy started on January 17, 2013 for a fixed term that was due to end on November 30, 2013. Rent for this unit was \$890.00 per month and was due on the 1st day of each month in advance. The tenant paid a security deposit of

\$445.00 on January 08, 2013. The tenant testifies that she paid a pet deposit of \$300.00 however the landlord testifies the tenant paid a pet deposit of \$200.00. The tenancy agreement provided in evidence indicates that a pet deposit of \$200.00 was paid on January 31, 2013.

The landlord testifies that the tenant was often late with the rent and on June 01, 2013 the tenant only paid \$500.00 for June's rent. This left an outstanding balance of \$390.00. The tenant was served with a 10 Day Notice to End Tenancy on June 02, 2013 and the tenant gave written notice to end the tenancy on June 02, 2013. The tenant's notice had an effective date of June 30, 2013. The landlord testifies that the unit was re-rented for July 01, 2013 so the landlord does not intend to pursue the tenant for any additional rent for breaking the lease agreement.

The landlord testifies that the tenant attended a move out inspection and signed the report to agree the landlord could keep the security and pet deposit for unpaid rent, carpet cleaning and repairs to the blinds. The landlord testifies that the blinds were in good condition at the start of the tenancy and were only nine months old. There were 14 lockets broken and loose. These lockets hold the vertical blinds in place. The blinds had to be repaired and the landlord has provided an invoice in evidence for an amount of \$280.00.

The landlord testifies that the carpet cleaning came to \$78.85 however the landlord forgot to include the invoice for this work in evidence.

The tenant agrees the landlord can keep \$78.85 from the pet deposit to clean the carpets as the tenant states she did have a pet and did not clean the carpets at the end of the tenancy. The tenant also agrees that the landlord may keep the amount of \$390.00 from the security deposit for unpaid rent. The tenant testifies she signed to agree the landlord could keep the security and pet deposit on the move out report.

The tenant disputes the landlords claim for the cost to repair the blinds. The tenant testifies that this section was added after the tenant signed to agree to the carpet cleaning and rent deductions. The tenant testifies that the blinds in the living room were all ready damaged at the start of the tenancy. New holes had been punched in the blinds and the vertical blinds had been flipped so the damaged areas were then at the bottom. The tenant testifies that this damage was not noted on the move in condition inspection report or the move out report. The tenant testifies that she has not received a copy of the invoice for the blinds.

The tenant testifies that her copy of the tenancy agreement indicates that the sum of \$300.00 was paid for the pet deposit and does not understand why the landlords copy shows \$200.00.

The landlord testifies that he cannot remember if the tenant paid \$200.00 or \$300.00 for the pet deposit and has no concerns about going with the tenants figures.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. With regard to the landlords claim to recover unpaid rent and the cost of cleaning the carpets from the security and pet deposits; when a tenant has agreed in writing that the landlord may deduct these costs from a security and pet deposit then I am not required to make a decision in this matter. The tenant has agreed in writing and confirmed this at the hearing that the tenant agrees the landlord may deduct \$390.00 for unpaid rent from the security deposit and \$78.85 for carpet cleaning from the pet deposit. These amounts will therefore be deducted pursuant to s. 38(4)(a) of the Act.

With regard to the landlords claim for \$280.00 for damage to the blinds; in this matter the tenant disputes that she caused any damage to the blinds during the tenancy and has testified that the blinds were already damaged and had been flipped putting the damaged area at the bottom of the blinds. The tenant has also testified that the section

on the move out inspection report was added to the report concerning the blinds after the tenant had signed to agree the landlord could keep the security and pet deposits for rent and carpet cleaning.

I have reviewed the condition inspection report and find the landlord has failed to fill in the body of the report indicating any areas of damage to the unit which in this case would be the window coverings. The landlord has indicated under the section of the report where the tenant has signed to agree to deductions from the security or pet deposit that there are blinds repair. I have no way of knowing whether or not this wording was added after the tenant signed the condition inspection report however the landlord has the burden of proof that the tenant was responsible for damage to the blinds and when one persons evidence is contradicted by that of the other then the person making the claim must provide corroborating evidence to meet the burden of proof.

As the landlord has not filled in any other sections of the report and I have no other corroborating evidence to support the landlords claim that the tenant was responsible for damage to the blinds then this is one persons word against that of the other and the burden of proof is not met. This section of the landlords claim is therefore dismissed.

As the landlord has been unsuccessful with this portion of the claim and was not required to file an application for dispute resolution for the carpet cleaning and unpaid rent as the tenant had agreed the landlord could deduct these sums from the security and pet deposit in writing then the landlord is not entitled to recover the \$50.00 filing fee from the tenant.

Conclusion

I HEREBY FIND in partial favor of the landlord's monetary claim. The landlord may deduct the amount of \$468.85 from the tenant's security and pet deposit of \$745.00. The balance of \$276.15 must be returned to the tenant and a Monetary Order has been

issued to the tenant for that amount. A copy of the Order must be served upon the landlord and is enforceable through the Provincial Court as an order of that Court.

The remainder of the landlords claim 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: September 16, 2013

Residential Tenancy Branch

