



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, OPC, OPB, MND, MNR, MNSD, MNDC, FF

Introduction

This Dispute Resolution hearing was set to deal with an Application by the landlord for a monetary order for rent owed, cost of changing the locks at the tenant's request during the tenancy, cleaning and repairs to replace a broken window.

The landlord was present. Despite each co-tenant being served by registered mail sent on July 30, 2013, as confirmed by Canada Post tracking numbers, neither tenant appeared.

Preliminary Matter

Although the landlord's application indicated that the landlord was requesting an Order of Possession, at the outset of the hearing, the landlord stated that they are no longer seeking the Order of Possession as the tenant had already vacated the unit on June 25, 2013. Therefore the issue of an order to end the tenancy is now moot. However, the landlord still seeks a monetary order and the hearing proceeded on that matter.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation under section 67 of the *Act* for rent owed and damages?

Background

The landlord testified that the tenancy began approximately 5 years ago and rent was \$796.00. A \$375.00 security deposit was paid. The tenancy ended on June 25, 2013.

A copy of the tenancy agreement, copies of the move-in and move-out condition inspection reports, copies of communications, invoices, photos and proof of service were submitted into evidence.

The landlord testified that at the time the tenant left, rental arrears of \$29.15 were owed for the month of May 2013 and this is being claimed.

The landlord testified that the tenant participated in the move-out condition inspection, but did not sign it. The landlord testified that the tenant did not leave the rental unit reasonably clean as required under the Act and neglected to shampoo the carpets.

In addition to the above, the landlord is claiming compensation for the \$53.80 cost of changing of locks, the \$42.00 cost of replacing 2 damaged lampshades, \$320.00 for general cleaning and steam cleaning the carpets and furnishings in the amount of \$241.50. Copies of the invoices to support these claims were in evidence.

The total amount being claimed is \$690.68, plus the \$50.00 cost of filing.

Analysis:

Section 26 of the Act states that rent must be paid when it is due, under the tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement. I find that the tenant did not pay all of the rent for May 2013 and the landlord is entitled to \$29.15 for rental arrears.

Test For Damage and Loss Claims

1. Proof that the damage or loss exists,
2. Proof that this damage or loss happened solely because of the actions or neglect of the Respondent in violation of the Act or agreement,
3. Verification of the actual amount required to compensate for the claimed loss or to rectify the damage, and
4. Proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage.

In this instance, the burden of proof was on the landlord, to prove the existence of the damage/loss and that it stemmed directly from a violation of the agreement or a contravention of the Act on the part of the respondent.

In regard to the cleaning and repairs, I find that under section 37(2) of the Act, when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

With respect to compensation requested for damages and losses, I find that the landlord's undisputed claims for \$320.00 for cleaning and \$241.50 for carpet cleaning have successfully met each of the four elements of the test for damages.

With respect to the \$53.80 cost of changing of locks, I find that section 25 of the Act places the responsibility for the cost of changing the locks at the beginning, or end of the tenancy on the landlord. Section 25(1) states that at the request of a tenant at the start of a new tenancy, the landlord must

- (a) rekey or otherwise alter the locks so that keys or other means of access given to the previous tenant do not give access to the rental unit, and

- (b) pay all costs associated with the changes under paragraph (a).

Section 25 (2) states that, if the landlord already changed the locks at the end of the previous tenancy, the landlord need not do so again.

I therefore find that the landlord's claim for compensation for changing the locks must be dismissed.

With respect to the \$42.00 cost of replacing 2 damaged lampshades, I accept that the shades were damaged. However, I find that awards for damages are intended to be restorative, meaning the award should place the applicant in the same financial position had the damage not occurred.

Where an item has a limited useful life, it is necessary to reduce the replacement cost by the depreciation of the original item. In order to estimate the pro-rated value of the replaced item, reference will be made to normal useful life of the item as provided in Residential Tenancy Policy Guideline 40.

With respect to these 5-year-old lampshades, I find that the damage consisted of discoloration due to being soiled. I find that discoloration of light-coloured lampshades pro-rated over a period of 5 years would be considered as normal wear and tear. Sections 32 and 37 of the Act state that tenants are not responsible for normal wear and tear. Accordingly I find that the landlord's claim for the cost of new lampshades must be dismissed.

I find that the landlord is entitled to total compensation of \$640.65, comprised of \$29.15 for rental arrears, \$320.00 for cleaning, \$241.50 for carpet cleaning and the \$50.00 cost of the application.

I hereby the landlord to retain the tenant's \$375.00 security deposit and issue a monetary order for the remainder of \$265.65.

This order must be served on the tenant in accordance with the Act and if necessary can be enforced through Small Claims Court.

The landlord's other monetary claims are dismissed without leave.

Conclusion

The landlord is partly successful in the application and is granted a monetary order for rental arrears and cleaning.

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: October 31, 2013

Residential Tenancy Branch