



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

The landlord applies for a monetary award for four days of tenant overholding and for damages for cleaning and repair of the apartment.

Issue(s) to be Decided

Does the relevant evidence show on a balance of probabilities that the landlord is entitled to recover any amount from the tenant?

Background and Evidence

The rental unit is a one bedroom apartment in a five unit apartment building, constructed in the 1930's or '40's. The tenancy started in April 1997. The present landlord purchased the building about eleven years ago. The last rent was \$687.00 per month.

In May 2013 the landlord signed a two month Notice to End Tenancy with an effective date of July 31, 2013. He also signed a letter to the tenant dated May 3 saying there would be "major maintenance" in the apartment in August which required the tenant to be away and requesting that the tenant find a new apartment at the end of July 2013.

The landlord claims the Notice and letter were a concoction of the tenant to enable him to receive subsidized housing. The tenant denies it saying the landlord was conducting a systematic renovation of all the units in the building.

The parties agree that the tenant did not return possession of the rental unit to the landlord until August 4th. The landlord re-rented the premises for September 1, 2013.

The landlord claims \$50.00 per day for this overholding. He claims damages for replacement of a cracked toilet, disposal of the tenant's garbage and abandoned items, replacement of a door sill and wall repair.

The tenant says the landlord told him not to bother about the toilet because it was being replaced anyway. The tenant denies leaving garbage or belongings. He says the wood waste shown in the landlord's photo does not belong to him but is part of the landlord's general renovation work. He denies allegations of altering the electrical wiring in the rental unit.

Analysis

I do not accept the landlord's claim that the two month Notice to End Tenancy was the tenant's idea. The landlord signed the Notice and signed the accompanying letter. He is bound by their terms.

It appears from the tenant's evidence that the landlord did indeed conduct some renovation work after the tenant left, including tiling a wall in the kitchen and laying linoleum. At the same time, that does not mean that the toilet, admittedly broken by the tenant, was to be replaced or that it had no value. In all the circumstances, I award the landlord half the cost of a new toilet and portion of the reasonable cost of installation; a total of \$80.00.

The landlord has not shown that the fridge needed cleaning but the tenant should have cleaned the stove before leaving, whether or not the landlord intended to retain it. I think it unlikely the landlord told the tenant he intended to replace it as it was only four years old. I award the landlord \$32.51 for stove cleaning.

I find that the landlord is entitled to recover for the tenant overholding in the premises for four days after July 31. Whether the landlord lost rental income during those days or not, the landlord was denied possession and is entitled the fair value of the premises for that time. I award the landlord \$92.00 for the four days the tenant kept possession past the end of the tenancy.

In the face of the tenants' denial, the minimal evidence presented by the landlord regarding the state of the premises after the tenant left does not show that the tenant left garbage or abandoned items needing removal, or that a door sill required replacement or that a wall needed repair due to damage caused during this tenancy. I dismiss those items of the claim.

Conclusion

The landlord is entitled to a monetary award of \$204.51 plus the \$50.00 filing fee. I authorize the landlord to retain the \$225.00 security deposit plus interest of 29.51 in full satisfaction of the award.

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 11, 2013

Residential Tenancy Branch

