



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNR, MND, MNDC, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for money owed or compensation for damage or loss,, unpaid rent and for alleged damage to the rental unit, for authority to retain the tenant's security deposit and pet damage deposit and for recovery of the filing fee.

The landlord appeared; the tenant did not appear.

The landlord testified that she served the tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail. The landlord supplied testimony of the tracking number of the registered mail and the returned envelope containing the tenant's Notice of Hearing and application, as he failed to claim the package.

In response to my question, the landlord said that the tenant supplied his forwarding address to her on July 19, 2013. I verified the address was the same address as used by the tenant on his rent cheques to the landlord, which was supplied into evidence by the landlord.

I find the tenant was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to retain the tenant's security deposit and pet damage deposit, further monetary compensation, and to recover the filing fee?

Background and Evidence

The landlord gave evidence that this tenancy began on April 1, 2012, ended on or about July 13, 2013, monthly rent was \$1675 and the tenant paid a security deposit of \$800 and a pet damage deposit of \$500 at the beginning of the tenancy.

The landlord's monetary claim was for damage to the hardwood floors for \$1600, repair to damaged paint for \$800, carpet cleaning for \$395, and a water bill for \$325.

In support of her application, the landlord submitted that the tenant left deep marks and scratches in the hardwood floor, which would take \$1600 to repair. In explanation, the tenant had a pit bull dog in the rental unit, without the knowledge of the landlord, and that the dog and the tenant's furniture left deep grooves in the flooring.

The landlord also submitted that the tenant damaged the walls and ceilings to the extent that the landlord paid \$1200 to make the repairs.

The tenant said that the water bill owed by the tenant has increased from the date of her application, as other bills have now come in, and that the tenant owes at least \$800 in unpaid water bills.

The landlord said that the tenant left other damage to the rental unit, but stated that she did not believe she would ever collect any money from the tenant.

The landlord said that if she was allowed to retain the tenant's security deposit and pet damage deposit, she would forgo seeking the full amount of all the damage.

The landlord's relevant documentary evidence included the tenancy agreements, a receipt for the painting, the water bills and the estimate for the floor repair.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the claiming party, the landlord in this case, has to prove, with a balance of probabilities, four different elements:

First, proof that the damage or loss exists, **second**, that the damage or loss occurred due to the actions or neglect of the respondent in violation of the Act or agreement,

third, verification of the actual loss or damage claimed and **fourth**, proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

As the tenant failed to attend the hearing to rebut the landlord's evidence, after being duly served, I find the landlord provided sufficient, undisputed evidence that the tenant damaged the rental unit beyond reasonable wear and tear. I accept that the damage to the walls and ceilings exceeded the amount of \$1200 and that the damage to the hardwood floors was in the approximate amount of \$1600.

I also find the tenant left owing unpaid water bills in excess of \$800.

Conclusion

As I find the amount of damage to the rental unit and the unpaid utilities exceeded the amount of the tenant's security deposit of \$800 and pet damage deposit of \$500, I allow the landlord's request to retain the tenant's security deposit of \$800 and the pet damage deposit of \$500 in satisfaction of her monetary claim listed in her application, which was her request.

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* and is being mailed to both the applicant and the respondent.

Dated: October 25, 2013

Residential Tenancy Branch

