



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Amacon Property Management Services Incorporated
and [tenant name suppressed to protect privacy]

DECISION

Dispute codes MND MNSD MNDC FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order allowing retention of the security deposit in satisfaction of the claim. The landlord has also requested recovery of the \$50.00 filing fee from the tenant. Both parties attended the hearing and had an opportunity to be heard.

Issues

Is the landlord entitled to the requested orders?

Background and Evidence

This tenancy began on December 1, 2013 and ended on July 31, 2013. The rent was \$750 per month. A security deposit of \$375 was paid at the start of the tenancy.

The landlord claims that the tenants failed to properly clean the unit upon move-out and that there was damage to the unit in the form of three holes in the walls that were not properly patched. The landlord submitted several photos in support of the claim. No receipts were submitted.

The photos certainly show that the kitchen was not properly cleaned by the tenants. The fridge and stove were dirty and the countertops and sink were very dirty.

For their part, the tenants claim that they had a “hectic move” and that they had actually not finished their clean up when the landlord went through. The tenants also claim that the carpets were not in good shape when they moved in and that the countertops were impossible to clean because they were painted and the paint peeled off when water got on them. The tenants acknowledged that the walls were damaged when they moved in but that they had done their best to have someone repair them.

The tenant did not submit any documentary evidence.

Analysis

The landlord has made a monetary claim against the tenant in the total amount of \$375 which is the amount of the security deposit. The landlord claims that the actual cost to them of repairing and cleaning the unit was \$793.00 but no receipts were submitted in support of this.

The landlord's claim is based on Section 37 of the Act which requires that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

As a general principle, when making a claim of this nature, the party making the claim bears the burden of proof on a balance of probabilities both as to liability and quantum. In other words, the claimant must first prove that the respondent is liable for the damage and then, having proved that, must then prove the cost of repairing the damage. Normally, this is done by submitting documents such as receipts, estimates and invoices.

In the present case, the landlord has submitted only photos. I do not even have the benefit of inspection reports.

However, despite the lack of supporting cost information I am satisfied based on the photos that the tenants failed to leave the kitchen reasonably clean. I find that the landlord has established a monetary claim in this regard in the amount of \$150.

I must dismiss the balance of the landlord's claim for lack of sufficient evidence as to liability and quantum.

Conclusion

I find that the landlord has established a total monetary claim of \$150.

I am also satisfied based on the outcome of this case that the landlord is entitled to recover half of the filing fee, namely \$25, from the tenants.

In satisfaction of the above orders the landlord may retain a portion of the tenants' security deposit.

I order that the balance of the security deposit in the amount of \$200 be returned to the tenants immediately. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: November 19, 2013

Residential Tenancy Branch

