



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order to retain the security deposit – Section 38;
2. A Monetary Order for compensation – Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions under oath.

Preliminary Matter

At the onset of the Hearing, the Tenant stated that her name was spelled wrong and asked that it be corrected. As there is no prejudice to the Landlord in correcting the Tenant’s name, this correction has been made to this decision and order.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on September 1, 2013 and ended on July 31, 2013. Rent of \$950.00 was payable monthly and at the outset of the tenancy the Landlord collected \$475.00 as a security deposit. The Parties mutually conducted a move-in inspection. The Tenants agree that they owe \$99.75 for the cost of cleaning the carpet.

The Tenant states that the Landlord was late for the move-out inspection and as the Tenants had a deadline to meet, the move-out inspection was done quickly. The Tenant states that the Landlord only marked that the unit was in poorly cleaned condition and no damages were noted. The Tenant states that the Landlord did not provide a copy of the move-out report to the Tenants and that the copy provided as evidence contains notations that were not in the copy signed by the Tenants.

The Landlord states that due to the condition of the unit, a new tenant was not obtained until September 15, 2013. The Landlord states that the repairs to the unit were completed by August 22, 2013 and that the unit was advertised on the first of September 2013. The Landlord claims lost rental income of \$950.00. The Tenant submits that the Landlord refused to allow the Tenants back into the unit to clean it after the tenancy and that they would have returned if given the opportunity.

The Landlord states that the Tenants left the unit damaged and unclean and claim as follows:

- \$480.00 for the costs of cleaning the 900 square foot unit. The Landlord states that the entire unit required cleaning, in particular the areas that were covered with mold. The Landlord states that it took over 20 hours to clean the unit at \$40.00 per hour. No invoice was provided.
- 380.00 for the costs to replace bathroom flooring and baseboards. The Landlord states that the Tenants left the bathroom floor damaged from mold. The Landlord states that the materials were on hand with the company. No invoice was provided to detail the costs of the materials and labour;
- \$750.00 for the cost to replace the tub surround. The Landlord states that the Tenants let the tub surround damaged by mold and that the soap tray had a hole in it. The Landlord states that the company had an existing tub surround that was purchased many years ago for \$150.00. No invoice was provided;

The Landlord states that his company carried out all the repairs and cleaning to the unit and while he does have invoices for all the costs claimed, these invoices were not provided for the claims as his company uses them for tax purposes. It is noted that the Landlord did provide an invoice for the carpet cleaning cost that was not disputed by the Tenant.

The Tenant agrees that there was some cleaning left but not to the extent claimed by the Landlord. The Tenant states that the unit was cleaned by the Tenants at move-out, including light fixtures and window ledges. The Tenant agrees that the outside of the stove was not cleaned. The Tenant states that during the tenancy the Landlord offered the Tenant a cleaning job and told her that he paid \$10.00 per hour. The Tenant states that although no mold was present at move-in, within a week, mold started in the bathroom and around the kitchen sink and became worse over the course of the tenancy. The Tenant states that silicone in the bathroom covered existing mold that spread into the silicone and could not be removed. The Tenants state that the Landlord was not informed about the presence of the mold.

Analysis

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established.

Given the Tenant's evidence that mold appeared shortly after the tenancy, I find that the Landlord has failed to establish that the Tenants caused the mold. However by neglecting to inform the Landlord, the Tenant did not provide the Landlord with an opportunity to inspect and repair the problem. I find therefore that mold existed in the unit at move-out requiring cleaning and repairs that may not have been to such an

extent had the Tenants informed the Landlord of the problem. Accepting that the Tenants did some cleaning to the unit , considering that the materials for the repairs were on-hand, considering that the Landlord did not provide an invoice for the costs to clean the unit or for the repairs and considering the Tenant's undisputed evidence of hourly pay offered by the Landlord for cleaning, I find that the Landlord has only substantiated a reasonable portion of the costs claimed in the amount of **\$100.00** for the cleaning and a nominal amount of **\$200.00** for the repairs. I also find that the Landlord has substantiated a portion of the lost rental income and that the Landlord is therefore entitled to a nominal amount of **\$200.00** in compensation. As the Tenants agree that they owe **\$99.75** for the cost of carpet cleaning, I find that that the Landlord is also entitled to this amount.

As the Landlord has been partially successful with its application, I find that the Landlord is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$649.75**.

Deducting the security deposit of **\$475.00** plus zero interest from the entitlement leaves **\$174.75** owed by the Tenants to the Landlord.

Conclusion

I Order the Landlord to retain the security deposit and interest of \$475.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining amount of **\$174.75**. If necessary, 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 22, 2013

Residential Tenancy Branch

