



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNS, MNR, MSD, FF

Introduction

In the first application the tenants seek recover of a \$350.00 security deposit. In the second application the landlords seek a monetary award for the allege cost of cleaning and repair to the premises and for an award for rent.

Issue(s) to be Decided

Does the relevant evidence presented at hearing show on a balance of probabilities that the landlords are entitled to damages or rent from the tenants?

Background and Evidence

The rental unit is a manufactured home located in a manufactured home park. It is one of four the landlord Ms. R. rents out.

Ms. R. claims she is the landlord. The tenancy agreement indicates that her partner Mr. R. M. is one of the landlords though he does not appear to have signed the agreement. Ms.R.'s application indicates that "Le Roi Mobil [sic] Home Park" is a landlord though there is not documentary evidence to indicate it as a landlord or to show what it is; a business name, a limited liability corporation, ...etc.

This tenancy started in May 2012 and ended at the end of August 2013, though the tenants stayed to complete their move out to September 6 with the consent of the landlord Ms. R.

The monthly rent was \$700.00. The landlord holds a \$350.00 security deposit. The tenants provided a forwarding address in writing on September 6, 2013.

The landlord(s) did not returned the security deposit but applied to keep it on September 20, 2013, within the 15 day period set out in s.38 of the *Residential Tenancy Act* (the "Act").

The manufactured home in question was built, according to Ms. R., in the 1970's. She adduced a number of photos in support of her claim that the tenants failed to properly clean the premises. She says she had to clean. She submits an invoice from herself, apparently to herself, for \$199.75.

The landlord Ms. R. also submits an invoice from her partner Mr. M., operating as "R(...)M(...) Construction" in the amount of \$4618.00 for replacing the kitchen cabinet containing the kitchen sink and repairing the wall behind, along with some "root" in the floor. She says that there was a leak below the sink, the tenants failed to report it and the resulting destruction required that entire area of the kitchen to be replaced.

The landlord Ms. R. testified that the tenants gave her verbal notice, perhaps at the end of July 2013, that they would be moving at the end of August. She confirms that because she had not found new tenants for September, she told these tenants not to worry if they stayed awhile past the end of August. She indicates she saw the water build up and mold under the sink in the trailer when she was showing the manufactured home to prospective tenants in August. She says she told the tenants NOT to clean under the sink because of mould danger. She had determined her worker would pull the whole thing out and replace it anyway, due to the water damage.

Though the tenants rented and used a carpet cleaner, the landlord alleges the carpets were stained. She produced photographs showing a dark discolouration in shag-like carpet. It is not readily apparent how large the spot is or how many there are. She called in her own carpet cleaning man but ended up not cleaning the carpets.

The landlord says that she had to clean behind all the appliances. She says the stove was dirty under the knobs. She says the tenants left holes in the walls from hanging pictures. She referred to a variety of photos showing dirt and debris behind appliances, some rust like marking in the fridge, dark staining on the false floor under the sink, a few dark splotches on the 2X4 decking, a few small holes in the walls and what appears to be rot under the drywall or wallboard beneath the sink.

The tenant Ms. B.P. testified that the tenants informed Mr. R.M. in April that there was a leak under the sink. She referred to various photographs of the premises taken by the tenants on September 6, 2013. The photos show that the walls inside the structure, or at least some of the walls are severely warped. She says it was not reasonably

possible to hang pictures on these walls. The photos show the premises to be a reasonable clean condition. She contests the existence or number of any stains in the carpets and says she heard the landlord's carpet man tell the landlord that the carpets were "fine."

Analysis

I find that Ms. R. is the only landlord. Mr. R. M. did not sign the tenancy agreement and so has not contracted with the tenants. Only Ms. R. signed it.

The landlord claim was brought within the 15 day period set by s.38 of the *Act* and so that section's doubling provision is not in effect.

The landlord has simply not satisfied the evidentiary burden on her to show that the tenants are responsible for the alleged extensive damage under the sink. It appears more likely that the damage was not particularly apparent to the tenants. Their evidence that Mr. R.M. was informed of the moisture last April was not contradicted.

In addition, the landlord's opinion about the work necessary under the sink is not in anyway an expert opinion or the opinion of a qualified tradesperson. The invoice from Mr. R. M. must be treated with caution. He is named on the tenancy agreement and is the landlord's partner. I do not take the invoice as evidence that the work performed or to be performed is the responsibility of the tenants. In result, I dismiss the landlord's claim for the recovery of any of the items listed in Mr. R. M.'s invoice.

I dismiss the landlord's claim for cleaning, as itemized in her invoice for \$199.75. All of the appliances in question were on pads, not on wheels. It is not a tenant's responsibility to pull out appliances and clean beneath and behind them unless they are on wheels (see Residential Tenancy Policy Guideline #1 "Landlord & Tenant: Responsibility for Residential Premises." The tenants' responsibility is to leave the premises "reasonably clean" at the end of the tenancy (s.37 of the *Act*). On the evidence before me, having regard to the general age of the premises, the tenants have met that standard, I dismiss the landlord's claim for cleaning.

Regarding the placing of pictures on walls, a residential premises are a tenant's home and a landlord must expect that the tenant will hang pictures on the walls. So long as the number of pictures is not excessive and the tenants fill the holes before leaving (Guideline #1, above), a landlord has no ground for a claim. It appears the tenants have done exactly that in this case.

Conclusion

The landlord claim is dismissed.

The tenants' claim to recovery the security deposit is allowed. I grant the tenants a monetary order against the landlord Ms. R. in the amount of \$350.00 plus the tenants' \$50.00 filing fee for a total of \$400.00.

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 14, 2013

Residential Tenancy Branch

