



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNR, MNSD, FF

Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant(s), and one brought by the landlord(s). Both files were heard together.

The landlord's application is a request for a monetary order for \$452.10, and a request for recovery of the \$50.00 filing fee.

The tenant's application is a request for a monetary order for \$870.00, and a request for recovery of the \$50.00 filing fee.

Some documentary evidence, photo evidence, and written arguments have been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

Has the landlord established a monetary claim for \$452.10, plus the \$50.00 filing fee?

Has the tenant established a monetary claim for \$870.00, plus the \$50.00 filing fee?

Background and Evidence

The parties agree on the following:

- This tenancy began on June 1, 2013 with the monthly rent of \$900.00.
- On May 19, 2013 the tenant paid a security deposit of \$450.00, and a pet positive \$450.00, for a total of \$900.00.
- On August 31, 2013 both the landlord and the tenant signed a mutual agreement to end the tenancy at 12:00 PM on August 31, 2013.
- A move out inspection was done on August 31, 2013 and on that report the tenant agreed to a \$30.00 deduction from the security deposit, and a \$0.00 deduction from the pet deposit.
- Both parties agree that the tenant was responsible for 1/4 of utilities.

The landlord testified that:

- At the end of the tenancy there was a total of \$48.24 in utilities outstanding.
- After the tenant vacated she discovered that the rental unit was left in need of significant cleaning, and that there was dog feces left in the yard and therefore she is asking for a total of \$160.00 for cleaning which represents four hours for two persons at \$20.00 per hour.
- At the end of the tenancy it was agreed that the tenant would pay \$30.00 so that she could clean the carpets, however the actual cost turned out to be \$43.86 and therefore that's the amount she is requesting.
- There was also a liquidated damages clause in the tenancy agreement that stated that the tenant would pay \$300.00 if the tenant terminates their tenancy in less than 12 months. They have reduced this amount to \$200.00 to be fair, however they believe that the tenant should be paying that amount as the tenant ended the tenancy well before the end of the 12 months.

Therefore the total amount she is requesting is as follows:

Utilities outstanding	\$48.24
Cleaning suite and removing dog feces	\$160.00
Carpet cleaning	\$43.86
Liquidated damages	\$200.00

Filing fee	\$50.00
Total	\$502.10

The tenant testified that:

- She does not dispute the claim for outstanding utilities; however the landlord did not present her with a copy of this bill prior to applying for dispute resolution.
- She does dispute the claim for cleaning and removing dog feces, as she left the rental unit reasonably clean and had picked up the dog feces from the yard. The landlord made no mention of any need for further cleaning or the removal of any dog feces during the moveout inspection, and in fact the only thing mentioned was a need for carpet cleaning.
- They agreed to \$30.00 for carpet cleaning at the end of the tenancy, and she does not believe she should now have to pay \$43.86.
- She also does not believe that she should have to pay liquidated damages. This tenancy ended by mutual agreement signed by both of them, and not by her terminating the tenancy.
- She also offered to sublet the unit for the landlord, but the landlord would not allow her to.

Therefore the total amount that she believes should be deducted from the security deposit is as follows:

Utilities outstanding	\$48.24
Carpet cleaning	\$30.00
Total	\$78.24

She is therefore requesting a monetary order as follows:

Return of security deposit	\$450.00
Return of the deposit	\$450.00
Filing fee	\$50.00
Subtotal	\$950.00
Minus above deductions	-\$78.24
Total	\$871.76

In response to the tenant's testimony the landlord testified that:

- She did not mention the need for any further cleaning during the moveout inspection, because she didn't notice it at that time. After the tenant moved out then she noticed the need for further cleaning.

- She did agree to a deduction of \$30.00 for carpet cleaning at the end of the tenancy; however it turned out costs more than that.
- They did sign a mutual agreement to end tenancy, however that was just to ensure that they could re-rent the unit. The reason the tenancy actually ended was the tenants request to terminate the tenancy.
- The addendum to the tenancy agreement states that there would only be one tenant living in the rental unit, and therefore the tenant was not allowed to sublet the unit.

Analysis

Utilities

The tenant does not dispute the \$48.24 claim for utilities, and therefore I have allowed that portion of the claim.

Cleaning, and removing dog feces

I deny the claim for cleaning, and for the removal of dog feces. Under the Residential Tenancy Act a tenant is responsible to maintain "reasonable health, cleanliness and sanitary standards" throughout the premises. Therefore the landlord might be required to do extra cleaning to bring the premises to the high standard that they would want for a new tenant. The landlord is not entitled to charge the former tenants for the extra cleaning. In this case it is my decision that the landlords have not shown that the tenants failed to meet the "reasonable" standard of cleanliness required.

Further during the moveout inspection, and on the report the landlord made no mention of the need for any further cleaning, other than carpet cleaning and it is my decision that it's unreasonable to then come back at a later date and state that further cleaning was required.

Carpet cleaning

I will allow \$30.00 for carpet cleaning, as this was the amount agreed on at the end of the tenancy. It's my decision that the landlord is bound by the amount she agreed-upon with the tenant.

Liquidated damages

I deny the claim for liquidated damages. The liquidated damages clause specifically states that “in the case where the tenant **terminates** their tenancy in less than 12 months and amount of \$300.00 will be charged by the landlord”. In this case this tenancy was ended by mutual agreement, and although the landlord has argued that the tenant had requested that the tenancy end early, the landlord still sign a mutual agreement to end the tenancy.

Therefore the total amount of the landlord's claim that I will allow is \$78.24.

I will not allow the landlords claim for recovery of the filing fee, as I've only allowed a small portion of the landlords claim, and in fact it was the amount that the tenant had agreed to pay.

I will allow recovery of the tenants filing fee however, as I have allowed the majority of the tenants claim.

Conclusion

I have allowed \$78.24 of the landlords claim, and the remainder of the claim is dismissed without leave to reapply.

I have allowed \$871.76 of the tenants claim, and have issued a monetary order in that amount.

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 04, 2013

Residential Tenancy Branch

