



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNSD MNDC FF

Introduction

This hearing dealt with applications by the landlord and the tenant. The landlord applied for a monetary order and an order to retain the security and pet deposits in partial compensation of the claim. The tenant applied for double recovery of the security deposit. Both the landlord and the tenant participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence, and neither party raised any issues regarding service of the application or the evidence or requested an adjournment. Both parties were given full opportunity to give testimony, present their evidence and to respond to the other party's claim. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Is the tenant entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on May 15, 2011. At the outset of the tenancy the tenant paid the landlord a security deposit of \$400 and a pet deposit of \$400. The tenancy ended on September 30, 2013. On that date, the tenant gave the landlord her forwarding address in writing. On October 15, 2013 the landlord made her application to keep the deposits in partial compensation of her monetary claim.

Landlord's Evidence

The landlord stated that on May 15, 2011 the landlord and the tenant carried out a joint move-in inspection and signed the condition inspection report. The landlord submitted a copy of the report, which is signed by the landlord and the tenant in the "Move-In" section.

The landlord stated that on September 30, 2013 the landlord and the tenant met at the rental unit to do the move-out inspection. The landlord stated that the tenant initialled beside two items on the move-out condition inspection report, "carpets not shampooed" and "oven not clean," but then the tenant refused to sign on the "Move-Out" section. The landlord stated that she took pictures of the rental unit during the inspection, except for the picture of the dirty window sill, which she stated she took the next day.

The landlord has claimed the following amounts:

- 1) \$682.50 for repairs and painting – the landlord submitted that there were several areas of the walls that had nail holes or other damage which required repairs and painting. The landlord submitted photographs and an invoice to support this portion of her claim;
- 2) \$126.31 for key replacement – the landlord stated that the tenant did not return a key. The landlord provided an invoice for rekeying;
- 3) \$150 for a missing burgundy area rug;
- 4) \$75 for cleaning the stove, oven, hood fan and washing some wall areas – the landlord submitted photographs and an invoice regarding this cleaning;
- 5) \$100 to repair kitchen countertop – the landlord stated that the countertop was new in May 2011, but a corner of the countertop was broken off at the end of the tenancy, as shown in the landlord's photograph;
- 6) \$30 for a ripped accordion door to the furnace room – the landlord provided photographs of the accordion door; and
- 7) \$157.50 for carpet cleaning – the landlord submitted an invoice for carpet cleaning.

Tenant's Evidence

The tenant stated that the landlord was not present at the move-in inspection, she only gave the tenant the condition inspection report and the tenant filled it out and gave it to the landlord to sign. The tenant stated that at the move-out inspection she only initialled the two items on the report and then was outside with her friend for the remainder of the time. The tenant stated that other than the two items she initialled, the landlord wrote

everything else on the report without the tenant present. The tenant submitted that the landlord did not comply with the Act in regard to either the move-in or move-out inspection, and therefore the landlord extinguished her right to claim the deposits for damage to the rental unit.

In regard to the landlord's claim, the tenant stated that she had no knowledge of the burgundy area rug; she never used the accordion door to the furnace room as she removed it and placed it in storage the day she moved in; there was no damage to the countertop at the end of the tenancy; and the tenant filled all the holes with spackle.

Analysis

In regard to the claims, I find as follows.

I do not find that there is sufficient evidence for me to determine if the landlord or the tenant failed to comply with the Act regarding the move-in and move-out inspections, or if they did so, who extinguished their right first. The landlord applied on time to keep the deposits, and I therefore find that the tenant is not entitled to double recovery of the deposits.

In regard to the landlord's claim, I find that the landlord is entitled to the amounts claimed for carpet cleaning and general cleaning and repairs, as the tenant acknowledged that the carpets had not been shampooed and that the oven was dirty, and the landlord's evidence supports these portions of her claim. I also accept the landlord's evidence regarding the amounts claimed for rekeying and for repairs and painting where there were either holes in the walls or where the holes had been spackled but still required to be painted.

I find that the landlord is not entitled to the amounts claimed for the area rug, the kitchen countertop or the accordion door, as she has not provided sufficient evidence to support these portions of her claim. There is no reference to an area rug in the move-in condition inspection report, and there is no evidence to show that the tenant caused the damage to the kitchen countertop or that the landlord suffered a loss for repairing the countertop. The landlord did not indicate the age of the accordion door, and I accept the tenant's evidence that she did not use the door during the tenancy.

Filing Fees

As neither party was fully successful in their application, I decline to award either party recovery of their respective filing fees.

Conclusion

The landlord is entitled to a total of \$1041.31. I order the landlord to retain the pet and security deposits of \$800 in partial compensation of this amount, and I grant the landlord an order under section 67 for the balance of \$241.31. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The remainder of both applications is dismissed.

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: February 11, 2014

Residential Tenancy Branch

