



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Sun Sky Investments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FF, MND, MNDC, MNSD,

Introduction

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

The tenant's application is a request for a Monetary Order for \$1400.00 and recovery of the \$50.00 filing fee.

The landlord's application is a request for a Monetary Order for \$1500.00 and recovery of the \$50.00 filing fee.

A substantial amount of documentary evidence, photo evidence, and written arguments has 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

Is the tenant entitled to a Monetary Order for \$1400.00?

Is the landlord entitled to a Monetary Order for \$1500.00?

Tenant's application

Background and Evidence

The tenant testified that:

- At the beginning of the tenancy the landlord collected the equivalent of one full month's rent as security deposit for a total of \$1750.00.
- There was no move in inspection report done at the beginning of the tenancy nor was there a move out inspection report done at the end of the tenancy.
- At the end of the tenancy the landlord only returned \$1050.00.
- He did not give the landlord any permission to keep any of the security deposit and doesn't feel that any deductions from the deposit are justified.
- The landlord was given a forwarding address in writing on June 27, 2013.
- He is therefore requesting an order for return of the \$700.00 remainder of his security deposit, double for a total of \$1400.00.

The landlord testified that:

- He did not do a move in inspection report at the beginning of the tenancy, as he was unaware that was required, however they did inspect the rental unit together a total of three times before the tenant moved in.
- They did not do a move out inspection report at the end of the tenancy either, however he did do an inspection with the tenant's roommates.
- He did not get any written permission to keep any of the security deposit however the tenant's roommates agreed with his assessment of the condition, and the \$700.00 was deducted from the security deposit to cover the required cleaning and repairs.
- He did not get the forwarding address on June 27, 2013; it was actually received on August 1, 2013.
- He did not apply for dispute resolution to keep the security deposit as he was unaware of the requirement to do so.

Analysis

The Residential Tenancy Act states that, if the landlord does not either return the security deposit, get the tenants written permission to keep all or part of the security deposit, or apply for dispute resolution within 15 days after the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing, the landlord must pay the tenant double the amount of security deposit.

The landlord has not returned the tenants security deposit or applied for dispute resolution to keep any or all of tenant's security deposit and the time limit in which to apply is now past.

This tenancy ended on August 1, 2013 and the landlord has admitted that he had a forwarding address in writing by August 1, 2013, and there is no evidence to show that the tenant's right to return of the deposit has been extinguished.

Therefore the landlord must pay double the amount of the security deposit to the tenant.

The landlord returned all but \$700.00 of the security deposit and therefore the tenant is requesting double the \$700.00 and I allow that request for a total of \$1400.00.

I also allow the request for recovery of the \$50.00 filing fee.

Landlords application

Background and Evidence

The landlord testified that:

- No move in inspection report was done at the beginning of the tenancy, however he did inspect the rental property with the tenant and the rental property was in good condition at the beginning of the tenancy.
- At the end of the tenancy the rental unit was in need of repairs, and cleaning as follows:
 - He had to repair and paint all inside walls.
 - He had to do a major overall cleaning.
 - He had to replace three window screens that had been removed.
 - He had to power wash stairs, corridors, and balconies.

- He had to clean the laundry room.
- He had to to repair and paint the stairs.
- He had to repair the rails over the stairs.
- He had to replace the lock on the front door and replace the doorstep.
- For the above work he is asking for \$700.00.
- He also believes that the tenant's roommate tampered with the electrical system and as a result may have damaged both the circuit box and the hot water tank and therefore is also asking for an additional \$800.00 to cover the cost of repairs to those items.

The tenant testified that:

- They did no damage to the rental unit, and left the rental unit in as clean condition as when they received it.
- There were some marks on the stairs, however the stairs were white painted stair treads and therefore it was inevitable that they would get marked under normal daily use.
- They also at no time tampered with the electrical system. In fact his roommate who is an electrician specifically stated that he did not want to touch the electrical system as he believed it was in poor condition and did not want to be held liable for any problems with the electrical system.

Analysis

It is my finding that the landlord has not met the burden of proving his claims against the tenant.

The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met.

Although the landlord claims there was a move in inspection done at the rental property, no move in inspection report was ever produced and therefore it is just the landlords word against that of the tenant as to the condition of the rental unit and whether there was any difference between the beginning of the tenancy and the end of the tenancy.

The tenant denies causing any damage to the rental unit, and claims that the rental unit was left in as good condition at the end of the tenancy as it was received at the beginning of the tenancy.

Therefore, since it is just the landlords word against that of the tenant, the landlord has failed to make the burden of proving his claim for damages.

As far as cleaning is concerned it's also my finding that the landlord has failed to show that the tenant did not leave the rental unit reasonably clean.

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. The photo evidence shows the need for some minor cleaning but nothing of any significance.

Conclusion

I have allowed the tenants full claim of \$1450.00 and I've issued a Monetary Order in that amount.

The landlord's application is dismissed in full without leave to reapply.

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: December 16, 2013

Residential Tenancy Branch

