



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MND, O

Introduction

This is an application for a Monetary Order for \$1305.00, and a request for recovery of the \$50.00 filing fee.

Some documentary 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

The issues are whether or not the tenant caused damages to the rental unit that total \$2305.00 and whether or not the landlord should be allowed to retain the full security deposit of \$1000.00 towards the claim and have a monetary order issued for the remaining \$1305.00.

Background and Evidence

The applicant testified that:

- When the tenant moved into the rental unit, other than a small amount of damage in the bedroom, the hardwood floors were in like new condition.
- When the tenant moved out of the rental unit there was extensive damage to the hardwood floors which included heel marks throughout, and numerous scratches and chips.

- As a result of this damage the floor needed to be repaired and the quote they got for repair came to \$2205.00.
- There was also one damaged smoke detector at a repair cost of \$25.00.
- There was also cleaning required and they agreed with the tenant to \$75.00 for that cleaning.

Therefore the total amount of the claim is as follows:

Hardwood floor repairs	\$2205.00
Smoke detector repair	\$25.00
Cleaning	\$75.00
Filing fee	\$50.00
Total	\$2355.00

He is therefore requesting that, on top of keeping the \$1000.00 security deposit, a Monetary Order be issued for \$1355.00.

The respondent testified that:

- The landlord did not fill out the move out inspection report on the date of move out, they visually inspected the rental unit together, and the landlord did not mention extensive damages.
- There were some damages that existed, however at that time the landlord left her with the belief that the total amount of repair and cleaning costs would be about \$800.00.
- They therefore shook hands, and the landlord informed her he would complete the report and send it to her.
- When she did get the report, the amount of damage had been grossly exaggerated and the claim was grossly inflated.
- You can see from the copy of the report in the file, she never signed the move out inspection report, nor did she ever give the landlord written permission to keep her security deposit.
- She also feels it's unreasonable that the landlord only got one quote for repair of the alleged damaged to the hardwood floor, and there is very little information on that quote, so there is no way of knowing whether previous damage has been taken into account.
- She does not dispute the claim for the damaged smoke detector, or the cleaning.

In response to the respondent's testimony the applicant testified that:

- The tenant did sign the move out inspection report; however she signed it in the move in inspection report spot in error as she had never signed the move in inspection report.
- He only got one quote for repair of the hardwood floor as he has dealt with this company on numerous occasions and knew that they would do a proper job.
- Further the company from which he got the quote had done the original installation and therefore was completely familiar with the flooring in question and any required staining.

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

- She did not sign the move out inspection report on move out, and she did sign the move in inspection report in the proper place at the beginning of the tenancy.
- As stated above the move out inspection report was not even fill out on the move out inspection date, and the landlord filled it out afterwards. There was no opportunity given to sign the move out inspection report.

Analysis

It is my finding that the landlord has not met the burden of proving the majority of his claim.

Although the landlord claims that the tenant signed the move out inspection report, the copy of the report provided for this hearing clearly shows that the report was signed on move in, but nothing was signed on move out.

Secondly, although the tenant does admit there was some damage to the hardwood flooring, it's my finding that the landlord has not met the burden of proving that the flooring was damaged to the extent claimed.

The landlord only got one quote for repair to the hardwood flooring, and as stated by the tenant that quote has not been itemized, and therefore there is no way of knowing what damage has been quoted for repair.

Thirdly, there is no evidence to show that the tenant has ever given the landlord any written permission to keep any or all of the security deposit, and the tenant denies ever giving any written permission.

Therefore since the applicant has not met the burden of proving the amounts claimed, I will only allow the amount that the tenant states she expected to have to pay which is \$800.00 for damages and cleaning.

The request for recovery of the filing fee is not allowed and the landlord must bear that cost.

Further Section 38 of 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.

This tenancy ended on August 17, 2013 and the landlord had a forwarding address in writing on that same date, however the landlord did not apply for dispute resolution until November 25, 2013, well past the 15 day time limit.

There is no evidence to show that the tenant's right to return of the deposit has been extinguished.

Therefore even though the tenant has not applied for double the security deposit, I am required to order that the landlord must pay double the amount of the security deposit to the tenant.

The tenant paid a security deposit of \$1000.00, and therefore the landlord must pay \$2000.00 to the tenant.

Conclusion

Pursuant to Section 67 of the Residential Tenancy Act I have allowed \$800.00 of the applicants claim, and the remainder of the claim is dismissed without leave to reapply.

The landlord is required to pay double the \$1000.00 security deposit to the tenant for a total of \$2000.00, and therefore I have set off the \$800.00 claim against the \$2000.00, and I've issued an order for the landlord to pay \$1200.00 to the tenant.

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: March 17, 2014

Residential Tenancy Branch

