



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background, Evidence and Analysis

The landlord gave the following testimony:

The tenancy began on September 1, 2007 and ended on January 31, 2014. The tenants were obligated to pay \$900.00 per month in rent in advance.

I address the landlord's claims and my findings around each as follows.

Landlords Claim – The landlord is seeking \$25000.00 for cleaning and repairing the unit. The landlord stated that the unit is a two level side by side duplex that was built in 1949. The landlord stated that the tenants had exclusive access to both floors. The landlord stated much of the unit was renovated prior to her purchasing the property in 1996. The landlord stated that the tenants were responsible for the following damage; carpets and underlay had to be replaced due to excessive filth, damage to kitchen floor and wall, lino replacement, water damage to kitchen countertop, holes in the bedroom closet and kitchen walls, fumigation required due to mould and rodent feces, window treatments stained and dirty and several truckloads of discarded items and garbage removal taken to the dump. The landlord stated that much of the water damage was due to the tenants leaking water cooler.

The tenants dispute the landlords' claim of damage. The tenant acknowledged that the unit was left dirty and that many bags of garbage and miscellaneous items were left behind. The tenant stated that they had every intention of cleaning the unit and removing all items but due to personal circumstances they were unable to do that. The tenants stated the house was old and in original condition. The tenant stated that unit was not damaged by the water cooler but by leaky plumbing.

The landlord did not conduct a move in or move out condition inspection report. The landlord stated that all of the work has been conducted. The landlord submitted an estimate of costs dated January 27, 2014 of \$43,200.00. The landlord submitted photos of the unit from "late January or early February".

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

The landlord has failed to satisfy me on all four of the above grounds as required specifically #3 and #4. The landlord has not submitted any recent photos of the said repairs. The landlord did not provide an actual receipt of the costs incurred. I asked the landlord what the final bill was and she stated "about \$25,000.00". With the lack of condition inspection report depicting changes from the start of tenancy to the end; if any, any recent photos, the conflicting amounts to do the repairs and in the absence of any recent receipts, I must dismiss the landlords claim.

Although the landlord has not satisfied me of the claim as alleged I do find that the landlord is entitled to a nominal award based on the tenants' acknowledgment that they did not clean the unit or remove the substantial amount of garbage.

Based on all of the above I find that a reasonable and appropriate amount to be awarded the landlord is \$1250.00. The calculation used to arrive at that number is based on the size of the unit and the scope of work required. A reasonable amount for cleaning is \$800.00 and rubbish removal of \$450.00.

As the landlord has been only partially successful they are entitled to the recovery of only half of the filing fee = \$50.00.

Conclusion

The landlord has established a claim for \$1300.00. I grant the landlord an order under section 67 for the balance due of \$1300.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: June 17, 2014

Residential Tenancy Branch

