



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kahl Realty & Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNSD, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has made application requesting return of double the \$1,275.00 security deposit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Preliminary Matters

The landlord's evidence package was not served to the tenant; it was set aside. The landlord was at liberty to make oral submissions.

Issue(s) to be Decided

Is the tenant entitled to return of double the security deposit paid, less \$860.40 previously returned?

Background and Evidence

The tenancy commenced in July 2012; a security deposit in the sum of \$1,275.00 was paid. A move-in condition inspection report was completed.

The tenancy agreement included a term requiring the tenant to have the carpets professionally cleaned at the end of the tenancy.

The tenant gave notice ending the tenancy on January 31, 2014; on which date a move-out condition inspection report was completed.

The tenant signed the move-out condition inspection report; agreeing to allow the landlord to make a deduction from the security deposit, to cover the cost of carpet cleaning. A specific sum

for the carpet cleaning was not indicated on the report. The tenant said he was told that he could expect a deduction from the deposit in the range of \$150.00 to \$200.00. The landlord said that no estimate was provided to the tenant.

Email evidence supplied by the tenant supported the carpet cleaning arrangement; however, when the tenant received a copy of the invoice on February 4, 2014, he contacted the landlord, objecting to the fee. The tenant said he had done some research for a commercial rate and determined the cost should be \$150.00 to \$200.00; as both the landlord and tenant had estimated it should cost.

The landlord responded via email to the tenant and explained that the tenant could attempt to negotiate a lower rate with the carpet cleaning company, but that he would have to pay the sum indicated on the invoice.

The tenant said that as a specific sum was not indicated or agreed to on the condition inspection report the landlord had no right to make any deduction from the deposit.

The parties agreed that the security deposit; less a deduction for carpet cleaning charged by the cleaning company, was placed in the mail on February 11, 2014 and received by the tenant on February 18, 2014.

The landlord's witness provided affirmed testimony that he had professionally cleaned the carpets in the rental unit. The upper floor of the home was carpeted; covering 1,028 sq. feet, plus a staircase and closets. A commercial rate of .35 per square foot was charged. The residential rate is 10 cents more per square foot.

The tenant said that the sum charged did not reflect a commercial rate and the time it would have taken to clean the carpets. The carpet company witness confirmed that the time taken does not factor into the cost; only the size of the area to be cleaned is relevant.

The tenant said he felt deceived by the landlord as he believed the charge would be less than \$414.54. The tenant acknowledged that it was his responsibility to have the carpets cleaned and that the landlord had them cleaned upon the request of the tenant.

Analysis

Section 38(1) of the Act determines that the landlord must, within 15 days after the later of the date the tenancy ends and the date the landlord received the tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit.

The tenant had agreed, in writing, to a deduction from the security deposit, for the cost of carpet cleaning. There was no dispute that this is what occurred at the end of the tenancy.

Section 38(4) of the Act provides:

(4) A landlord may retain an amount from a security deposit or a pet damage deposit if,

- (a) at the end of a tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant, or*
- (b) after the end of the tenancy, the director orders that the landlord may retain the amount.*

At the end of the tenancy the tenant agreed, in writing, allowing the landlord to retain an amount to pay a liability of the tenant. The tenant essentially transferred his obligation to arrange the carpet cleaning, to the landlord, who then in good faith had the carpets professionally cleaned. The tenant's real dispute is that he believed the cost would be less than it was; not the deduction itself.

I find that the amount agreed to on the condition inspection report was whatever it cost to clean the carpets. The issue here is that the cost of the carpet cleaning exceeded the sum the tenant expected; not that there was no agreement for a deduction. I find that once the tenant signed agreeing to allow the landlord to arrange the carpet cleaning, he also signed accepting the amount it cost to clean the carpets.

There was no evidence before me that the amount charged was inappropriate given the size of the area that was cleaned. In fact, the sum charged was ten cents less per square foot than if the tenant had arranged cleaning of the same square footage at the residential rate. The tenant said he obtained estimates that were much less than that charged; but no verification of this was supplied as evidence.

I find, pursuant to section 62(3) of the Act, that section 38(4) of the Act has been satisfied. The tenant agreed to a deduction from the deposit; he allowed the landlord to arrange the carpet cleaning and within fifteen days the balance of his deposit was returned, in accordance with the Act. The tenant may dispute the sum charged but the tenant did agree to have an amount deducted for carpet cleaning. Therefore, I find that the application is dismissed.

Conclusion

The application 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: June 16, 2014

Residential Tenancy Branch

