



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR, MND, MNSD & MNDC

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing filed by each party was sufficiently served on the other by mailing, by registered mail to where the other resides. With respect to each of the applicant's claims I find as follows:

Issues to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to a monetary order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?
- d. Whether the tenant is entitled to a monetary order and if so how much?
- e. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on February 1, 2010, continue for a fixed term of one year and become month to month after that. The tenancy agreement provided that the tenant(s) would pay rent of \$2900 per month payable on the first day of each month. The tenant paid a security deposit of \$1450 and a pet damage deposit of \$1450 on January 16, 2010.

In January 2014 the tenant gave the landlord written notice that she was vacating the rental unit at the end of February. The parties subsequently agreed the tenant could remain in the rental unit until March 4, 2014. The tenancy ended on that date. The parties conducted a Condition Inspection on March 4, 2014. The landlord provided the tenant with a copy of the Condition Inspection Report within 15 days of the Inspection. The tenant gave the landlord her forwarding address in writing on March 4, 2014. The landlord filed her Application for Dispute Resolution on March 19, 2014.

Landlord's Claim:

The Residential Tenancy Act provides the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant and is liable to compensate the landlord for failure to do so. In some instances the landlord's standards may be higher than what is required by the Act. The tenant is required to maintain the standards set out in the Act. The tenant is not required to make repairs for reasonable wear and tear. The applicant has the burden of proof to establish the claim on the evidence presented at the hearing.

Monetary Order and Cost of Filing fee

With respect to each of the landlord's claims I find as follows:

- a. I determined the landlord is entitled to \$131.25 for the cost of carpet cleaning. The tenant accepted responsibility for this claim.

- b. I determined the landlord is entitled to \$78.75 for the cost of cleaning hardwood floors, washer and dryer. I am satisfied based on the evidence that the floors, washer and dryer were not sufficiently cleaned and the amount claimed is reasonable.
- c. I dismissed the claim of \$120 for the cost of depreciation to the washer. The landlord has not taken steps to repair the scrapes to the washing machine. The rental unit is up for sale. The landlord has failed to prove a loss as there is no evidence that the sale price will be diminished because of the washer.
- d. The landlord claimed 75% of the cost to remove stains from the granite/marble counters or the sum of \$156.76. I determined the landlord is entitled to \$100 of this claim being a reasonable sum for the damage that exceeded reasonable wear and tear.
- e. The landlord claimed 50% of the cost to repair the hardwood floor in the rental unit. The landlord alleged there was extensive damage caused by the tenant's dogs and high heels. I determined the damage alleged by the landlord was as extensive as alleged. Further, the landlord failed to prove a loss. The landlord has not made the repairs. She has put the rental unit up for sale. It may be that she will be able to sell the rental unit without any deduction for damage to the floors. As a result I ordered this claim be dismissed.
- f. The landlord claimed the sum of \$367.50 for the cost of repairing damage to wall and trim. I determined there was some damage in the form of holes, nicks and scrapes that exceeded reasonable wear and tear. However Policy Guideline 40 – Useful Life of Building Elements provides that the reasonable life expectancy of a interior paint job is 4 years. The tenancy began in early 2010. In the circumstances I determined the landlord is entitled to \$150 of this claim being the amount that exceeded reasonable wear and tear and normal depreciation.

In summary I determined the landlord has established a monetary claim against the tenant(s) in the sum of \$460 plus the \$50 filing fee for a total of \$510. **I ordered that the landlord may retain this sum from the security deposit and pet damage deposit leaving a balance of \$2390.**

Tenant's Claim:

The Residential Tenancy Act provides that a landlord must return the security deposit plus interest to the tenants within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing unless the parties have agreed in writing that the landlord can retain the security deposit, the landlord already has a monetary order against the tenants or the landlord files an Application for Dispute Resolution within that 15 day period. It further provides that if the landlord fails to do this the tenant is entitled to an order for double the security deposit.

Analysis

The tenants paid a security deposit of \$1450 and a pet damage deposit of \$1450 on January 16, 2010 for a total of \$2900. I determined the tenancy ended on March 4, 2014. I further determined the tenant provided the landlord with her forwarding address in writing on March 4, 2014. I determined the landlord provided the tenant with a copy of the Condition Inspection Report within 15 days of the end of tenancy. I also determined the landlord filed an Application for Dispute Resolution within 15 days of the later of the end of tenancy or the date the landlord received the tenant's forwarding address in writing.

With regard to each of the tenant's claims I find as follows:

- a. I dismissed the tenant's claim for the doubling of the security deposit and the pet damage deposit. I determined the landlord filed an Application for Dispute Resolution within 15 days of the end of tenancy or the date the landlord received the tenant's forwarding address in writing. The landlord provided the

tenant with a copy of the Condition Inspection Report within 15 days. I do not accept the submission of the tenant the landlord was obliged to return the pet damage deposit as there was no possibility of damage done by pets. I determined the landlord was entitled to hold onto the pet damage deposit until the determination in this hearing as there was a possibility that the damage to the hardwood floors was caused by the pets. While there was a short delay in the service of the Landlord's Application for Dispute Resolution on the Tenant I determined the tenant was not prejudiced by this delay and I granted the landlord an extension of time to serve the Application.

- b. I have determined the landlord has established a claim against the security deposit/pet damage deposit in the sum of \$510 and I have ordered the landlord may retain this sum leaving a balance of \$2390. The tenant is entitled to the return of the balance of the security deposit/pet damage deposit in the sum of \$2390.

Monetary Order and Cost of the Filing Fee:

I ordered the landlord return to the tenant the balance of the security deposit/pet damage deposit in the sum of \$2390 plus the sum of \$50 for the cost of the filing fee for a total of \$2440.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

Conclusion:

I determined the landlord has established a claim against the tenant in the sum of \$510 (including the \$50 filing fee) and I ordered the landlord can retain this sum from the security deposit and pet damage deposit. I determined the tenant has established a claim against the landlord for the return of the balance of the security deposit/pet damage deposit in the sum of \$2390 plus the \$50 filing fee for a total of \$2450. A formal order to this effect is enclosed.

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 11, 2014

Residential Tenancy Branch

