



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing was convened by conference call in response to an Application for Dispute Resolution (the "Application") made by the Landlords for a Monetary Order: for damage to the rental suite; for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the "Act"), regulation or tenancy agreement; to keep part of the Tenant's security deposit; and to recover the filing fee from the Tenant for the cost of the Application.

One of the Landlords appeared for the hearing and provided affirmed testimony and written evidence prior to the hearing. There was no appearance for the Tenant during the 24 minute duration of the hearing and no submission of written evidence before the hearing. As a result, I turned my mind to the service of the Notice of Hearing documents by the Landlord.

The Landlord testified that the Tenant was served a copy of the Application and the Notice of Hearing documents by registered mail on March 22, 2014. The Landlord provided the Canada Post tracking number during the hearing as evidence for this method of service; the number was noted in the file.

The Canada Post website indicates that the Tenant received and signed for the documents on March 26, 2014. Based on the Landlord's evidence, I am satisfied that the Tenant was served the required documents in accordance with Section 89(1) (c) of the Act. As a result, I continued to hear the undisputed evidence of the Landlord as follows.

Issue(s) to be Decided

- Are the Landlords entitled to keep the Tenant's remaining security deposit of \$335.10 in full satisfaction of Landlords' damage claim?

Background and Evidence

The Landlord testified that the tenancy started on April 1, 2012 on a month to month basis. A written tenancy agreement was completed and provided as evidence for this hearing. Rent was payable by the Tenant in the amount of \$850.00 on the first day of each month. The Tenant paid the Landlords a security deposit in the amount of \$425.00 on March 15, 2012. I note that no interest is payable on the Tenant's security deposit.

The Landlord testified that the Tenant gave notice in early February, 2014 to end the tenancy. As a result, the Landlord made arrangements to show the rental suite to prospective renters on the second week of February, 2014.

During the viewing, the Landlord noticed that the Tenant had done unauthorised repairs to the bathroom ceiling as there was a strong smell of epoxy coming from the bathroom. The Landlord provided pictures of the damages; however, these pictures were received by the Residential Tenancy Branch in black and white. As a result, the Landlord described the damage to the ceiling as repairs that had been completed to an unreasonable and unacceptable standard. The ceiling had been patched up with textured stucco which was lumpy, not the same texture and of a different colour. The Landlord testified the state of the repair was not of an acceptable standard to provide to the new renters.

The Landlord concluded that the repairs were done by the Tenant as a result of the leak coming from the above unit in December, 2013. The owners of the leaky unit called a plumber who then requested the Tenant for access to the rental suite in order to fix the leak from the Tenant's bathroom ceiling.

The Landlord testified that he discovered after the fact, that the Tenant had cut holes in the bathroom ceiling in order to give access to the plumber to fix the leak and then proceeded to repair the holes by himself without any notification of the leak or the repairs to the Landlord.

The Landlord mentions in his written submissions that the Tenant did inform them in December, 2013 that there had been leak in the ceiling but that he had taken care of it and no further mention was made of it by any of the parties.

The Landlord testified that he contacted the owners of the leaky unit after the tenancy had ended who explained that they asked the Tenant on two occasions for access to his rental suite in order to repair the holes that the Tenant had cut as the leak had

emanated from their unit. However, the Tenant refused access and told them he had taken care of it.

The Landlord testified that the Tenant was not happy when he was informed him that the Landlord would have to re-do the bathroom ceiling repairs.

The Landlord testified that the Tenant left the rental suite on February 28, 2014 and had verbally provided his forwarding address to his wife (the Co-landlord) shortly after vacating the rental suite, as his wife and the Tenant worked together. The Landlord confirmed that the Tenant had not provided a forwarding address in writing.

The Landlord testified that he got some quotes to get the bathroom ceiling repaired to a decent standard but the quotes he was getting were excessive as he needed the work to be done quickly before the new renters were going to be taking occupancy. However, the Landlord managed to get a professional who completed the dry walling for \$200.00 which the Landlord testified was half of what he had been quoted. The Landlord provided the receipt as evidence for this cost.

The Landlord also provided a receipt for the cost of primer and paint in the amount of \$67.60 and testified that he decided to paint the ceiling himself to get the work done quickly and to minimize the cost. The Landlord testified that the painting took 4.5 hours which he charged at a cost of \$15.00 for a total amount of \$67.50 in labour.

The total amount claimed by the Landlord for the repairs is \$335.10. This left a balance of \$89.90 which the Landlord returned to the Tenant in the form of a cheque on March 12, 2014 which the Tenant cashed straight away.

Analysis

Section 33 of the Act explains the procedure that a Tenant must follow when dealing with an emergency repair such as a major leak in the pipes or a roof. This includes informing the Landlord of the repair and giving an opportunity to the Landlord to complete the repair.

I accept the undisputed evidence of the Landlord that the Tenant failed to alert the Landlord to the leaking unit above the rental suite and offer the Landlord the opportunity to have the repairs done or allow the owner of the leaky unit to complete the repairs. I find that the Tenant would not have been held responsible for these repairs, but instead chose to complete the repairs of his own accord. I also accept the Landlord's written

and verbal testimony that the Tenant did not complete the repairs to an acceptable standard which required the Landlord to redo them.

I also find that the Landlord has provided sufficient evidence to verify the loss in the form of the invoices provided as evidence and I accept the Landlord's testimony that he took reasonable steps to mitigate the losses by seeking low cost professional services and completing the painting himself at a reasonable rate.

The Landlord also withdrew his claim for the recovery of the filing fee as he had no intention of pursuing the Tenant for the \$50.00 cost.

As a result, I find that the Landlords are entitled to keep the remainder of the Tenant's security deposit in full satisfaction of the losses incurred by the Landlord for the damages caused by the Tenant.

Conclusion

For the reasons set out above, I order the Landlords to keep the Tenant's remaining security deposit in the amount of \$355.10.

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: July 17, 2014

Residential Tenancy Branch

