



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RCL Branch 83 Housing Society and Mender Property Services
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for damage to the unit, site or property; for an Order permitting the landlord to keep all or part of the tenant's security and pet deposit; and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served by registered mail on March 31, 2014. Canada Post tracking numbers were provided by the landlord in documentary evidence. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for damage to the unit, site or property?
- Is the landlord permitted to keep all or part of the security and pet deposit?

Background and Evidence

The landlord testified that this tenancy started on October 01, 2010 for a month to month tenancy. Rent for this unit started at \$1900.00 per month and had increased over the course of the tenancy to \$2550.00. The tenant paid a security deposit of \$500.00 this was paid in full by September 23, 2010 and a pet deposit of \$500.00 which was paid on March 16, 2011.

The landlord testified that the parties conducted a move in condition inspection at the start of the tenancy; however, at the end of the tenancy the tenant was in a hurry as her cat was left in the car and did not attend the move out inspection. The tenant provided the landlord with a forwarding address in writing on March 14, 2014.

The landlord testified that in 2012 a guest of the tenants burnt a hole in the carpet with a cigarette. The landlord paid to have this hole patched but the patch was very obvious in the carpet and the tenant was informed that the carpet may have to be replaced at the end of the tenancy. The landlord testified that during the move out inspection it was noticed that the carpets were left extremely stained. There was a large blue stain by the kitchen cabinets and black stains around the carpet where the tenant had area rugs down. There was also a large black stain on the carpet by the walk-in closet. The landlord testified that none of this staining could be removed by the landlord's carpet cleaners and the carpets had to be replaced in the living room and bedroom.

The landlord testified that the carpet replacement cost \$1,159.20; however, as the carpets were four years old the landlord only seeks to recover 60 percent of this amount due to depreciation of the carpets in that four year period. The landlord therefore amends their claim to \$695.52. The landlord testified that they will return the balance of the tenant's security and pet deposit but seek to withhold the additional amount of \$50.00 for the filing fee paid for this application.

The landlord has provided a copy of the tenancy agreement, the inspection reports, photographic evidence showing the damaged area of the carpet and the staining on the carpets, an invoice for the carpet repair done 2012 and the invoice for the replacement carpets in documentary evidence.

Analysis

The tenant did not appear at the hearing to dispute the landlord's claims, despite having been given a Notice of the hearing; therefore, I have considered the landlord's undisputed documentary evidence and sworn testimony before me.

I refer the parties to s.32 (2) and 32(3) of the *Act* which states:

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) A tenant of a rental unit 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.

I am satisfied that the tenant's guest caused damage to the carpet with a cigarette burn and although this was patched in 2012 the patch remains very obvious in the carpet. I am also satisfied that the carpets were left badly stained in areas in the living room, by the kitchen cabinets and in the bedroom. The tenant does not appear to have attempted to have the carpets cleaned prior to the end of the tenancy as required and the staining could not be removed.

Consequently, it is my decision that the landlord is entitled to retain the amount of \$695.52 from the tenant's security and pet deposit as claimed pursuant to s. 38(4)(b) of the *Act*.

I further find the landlord is entitled to recover the \$50.00 filing fee from the tenant pursuant to s. 72(1) of the *Act* and may also retain this from the security deposit.

The balance of \$254.48 will be returned to the tenant by the landlord.

Conclusion

I HEREBY FIND in favor of the landlord's amended monetary claim. The landlord may retain the amount of \$745.52 from the security and pet deposits.

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 16, 2014

Residential Tenancy Branch

