



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MND, MNDC, MNSD, FF
MNDC, MNSD, FF

Introduction

This hearing concerns 2 applications: i) by the landlord for a monetary order as compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of all or part of the security deposit / and recovery of the filing fee; and ii) by the tenant for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / compensation reflecting the double return of the security deposit / and recovery of the filing fee.

Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether either party is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on July 01, 2011. Monthly rent of \$1,300.00 is due and payable in advance on the first day of each month, and a security deposit of \$650.00 was collected. A move-in condition inspection report was completed with the participation of both parties.

By letter dated May 01, 2012 the tenant gave notice to end tenancy effective June 30, 2012. A move-out condition inspection report was completed with the participation of both parties, and the tenant provided her forwarding address on the report.

Subsequently, the landlord withheld \$603.50 of the tenant's security deposit, and repaid the balance of \$46.50 by way of cheque dated July 12, 2012 (\$650.00 - \$603.50). The tenant testified that she has not cashed the landlord's cheque, and the parties agreed that with the passage of a significant period of time, the cheque could no longer be negotiated at the bank.

The tenant filed an application for dispute resolution on June 02, 2014. Thereafter, the landlord filed an application for dispute resolution on September 11, 2014.

Analysis

Based on the documentary evidence and the affirmed testimony of the parties, the various aspects of the respective claims and my related findings are set out below.

TENANT

\$1,300.00: *(2 x \$650.00) the double return of the security deposit*

Section 38 of the Act addresses **Return of security deposit and pet damage deposit**. In part, this section provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit, or file an application for dispute resolution. If the landlord does neither, section 38(6) of the Act provides that the landlord may not make a claim against the security deposit, and must pay the tenant double the amount of the security deposit.

In the circumstances of this dispute, I find that the landlord neither repaid the security deposit nor filed an application for dispute resolution within 15 days after June 30, 2012, which is the date when tenancy ended, and the date when the landlord received the tenant's forwarding address in writing. Accordingly, I find that the tenant has established entitlement to compensation reflecting the double amount of the original security deposit.

\$50.00: *filing fee*

As the tenant has succeed with her application, I find that she has established entitlement to recovery of the full filing fee.

Total: \$1,350.00 (\$1,300.00 + \$50.00)

LANDLORD

\$387.52: *carpet cleaning*

Section 37 of the Act addresses **Leaving the rental unit at the end of a tenancy**, in part:

37(2) When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and...

Further, Residential Tenancy Policy Guideline # 1 speaks to “Landlord & Tenant – Responsibility for Residential Premises,” and under the heading – CARPETS, provides in part:

The tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. Where the tenant has deliberately or carelessly stained the carpet he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of tenancy.

The tenant testified that she rented proper equipment and undertook to clean the carpet near the end of tenancy. Despite this, the move-out condition inspection report reflects the landlord’s view that the carpet was still variously in need of “vacuuming” or a “steam clean.” On the move-out condition inspection report the tenant notes her disagreement with the landlord’s view that additional cleaning was required in the unit, including the carpets.

I find on a balance of probabilities that the carpet required additional cleaning in order to be considered “reasonably clean.” In the result, I find that the landlord has established entitlement to **\$290.64**, or 75% of the amount claimed.

\$160.00: (8 hours x \$20.00 per hour) cleaning in the unit

Once again, the move-out condition inspection report reflects the landlord’s view that additional cleaning was required in the unit, and the tenant has indicated on the report that she disagrees with the landlord’s view.

I find on a balance of probabilities that there were certain areas within the unit, including in and around appliances, which were not left “reasonably clean” at the end of tenancy. Accordingly, I find that the landlord has established entitlement limited to **\$80.00**, or half the amount claimed.

\$17.33: (\$10.62 + \$6.71) *cleaning supplies*

In concert with the finding set out immediately above, I find that the landlord has established entitlement to **\$8.67**, which is half the amount claimed.

\$50.00: *filing fee*

As the landlord has achieved a measure of success with this application I find that the landlord has established entitlement to recovery of the full filing fee.

Total: \$429.31 (\$290.64 + \$80.00 + \$8.67 + \$50.00)

Offsetting the respective claims, I find that the tenant has established a net entitlement to **\$920.69** (\$1,350.00 - \$429.31)

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$920.69**. Should it be necessary, this order may be served on the landlord, 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: October 02, 2014

Residential Tenancy Branch

