



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 was a hearing with respect to the landlord's application for a monetary award and an order to retain the tenants' security deposit. The hearing was conducted by conference call. The landlord and the tenant called in and participated in the hearing

Issue(s) to be Decided

Is the landlord entitled to a monetary award and if so, in what amount?

Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

The rental unit is a strata title apartment in Burnaby. The landlord submitted a large quantity of photographs, but she did not submit copies of relevant documents, such as a copy of the tenancy agreement; instead she submitted photographs taken of selected pages of certain documents, including pictures taken of some, but not all, pages of a tenancy agreement. The documents, consisting of three pages of receipts and 104 pages of photographs were submitted to the Residential Tenancy Branch on September 29, 2014. The tenant testified that he did not receive copies of the tenant's documents. The landlord did not provide proof that the documents were delivered to the tenant. She said the documents were sent to the tenant along with her application for dispute resolution by registered mail sent on June 4, 2104. The landlord did not submit any documentary evidence with particulars of the registered mailing.

The landlord testified that the tenant rented her furnished apartment in 2012. The landlord submitted pictures of a tenancy agreement referring to a tenancy commencing November 30, 2013 for a six month term, with rent in the amount of \$2,100.00 payable on the first of each month. The agreement referred to a \$1,100.00 security deposit: "already collected during 1st lease contract".

The landlord said that the tenant moved out of the rental unit on May 27, 2014 and left her furnished apartment uninhabitable. She complained in her application that:

Garbage everywhere, dirt everywhere, dishes alcohol bottles, items missing, items broken. Carpet was not cleaned (which was a clause in our tenancy agreement). Carpet is so dirty that cleaners said it is not cleanable and must be replaced. Mattress also the same condition. Vomit, blood and urine stains as written in receipt for cleaning. The landlord set out the following in a monetary order worksheet attached to her application:

1. Carpet & mattress cleaning:		\$546.00
2. Broken/missing items in condo:		\$481.67
3. Work I've missed & gas driving around town:	w =	\$600.00
	g =	\$66.75
4. Replacement of duvets X2:		\$362.88
5. Home depot cleaning solutions, broken items:		\$257.52
6. Condo not inhabitable therefore (lost rent)		\$1,250.00
7. Lady/cleaner:		\$200.00
8. TV is broken and tenant has stolen cords		?
9. Carpet to be replaced		?
10. Furniture broken to be replaced		?
11. Mattress to be replaced		?
12. Decor missing and/or broken		\$78.00 + \$200.00
Total: so far		\$3,993.36

The tenant denied substantially all of the landlord's claims. I was not able to canvass the evidence with the tenant because he did not have the landlord's evidence

Analysis and conclusion

The landlord has not provided sufficient proof that the tenant was given the documents and photographic evidence in advance of this hearing. The tenant did not submit proof that the documents were delivered to the tenant. The landlord did not submit her evidence to the Residential Tenancy Branch until four days before the hearing. It also appears that her claim filed on June 4, 2014 was brought before she had made repairs or replaced items that she claimed were damaged by the tenant.

Because the landlord has not provided proof of service of her documents and evidence I find that this application must be dismissed, but with leave to reapply. If the landlord submits a new application she must provide photocopies of all relevant documents, including the tenancy agreement and condition inspection reports and not rely on photographs of the documents taken by cell phone or camera.

Conclusion

The landlord's application is dismissed with leave to reapply.

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 29, 2014

Residential Tenancy Branch