



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD, FF

Introduction

This is an application filed by the landlord for a monetary order for damage to the unit, site or property, for money owed or compensation for damage or loss, to keep all or part of the security deposit and recovery of the filing fee.

The landlord attended the hearing by conference call and gave undisputed testimony. The tenant did not attend or submit any documentary evidence. The landlord states that the tenant was served with the notice of hearing package and the submitted documentary evidence by Canada Post Registered Mail on July 10, 2014 and has submitted a copy of the Customer Receipt Tracking number as confirmation.

At the beginning of the hearing, the landlord stated that he wished to withdraw the first two listed claims of \$630.00 for replacement of a stained carpet and for \$75.00 for carpet cleaning costs. As such no further action is required for these portions of the application.

Issue(s) to be Decided

Is the landlord entitled to a monetary order?

Is the landlord entitled to retain the security and pet damage deposits?

Background and Evidence

This tenancy began on March 7, 2011 on a fixed term tenancy until March 6, 2012 and then thereafter on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$1,375.00 payable on the 7th of each month and a security deposit of \$625.00 and a pet damage deposit of \$500.00 were paid. The landlord stated that \$500.00 was returned in cash to the tenant at the end of the tenancy for part of the security deposit.

The landlord seeks a monetary claim of \$1,445.00 which consists of \$200.00 for the cost of painting 3 rooms and a hallway due to multiple damage and putty fills in the walls, \$100.00 for the cost of replacing weather seals damaged on the exterior doors, \$20.00 for the replacement of a broken doorbell switch, \$75.00 for cutting the grass, \$150.00 for 3 days of over holding the rental unit until July 3, 2014, \$400.00 for compensation paid to the new tenant for one week for not being able to move in on time and \$500.00 paid to the tenant for the return of part of his security deposit. The landlord seeks a monetary claim for \$2,150.00 repair/damage compensation and to offset it against \$1,125.00 in total deposits paid for a difference of \$1,050.00.

The landlord states that the tenant left the rental unit dirty and damaged requiring cleaning and repairs. The landlord relies on a complete condition inspection report for the move-in dated March 4, 2011 and photographs submitted. The landlord states that the tenant refused to sign the condition inspection report for the move-out. The landlord stated in his written statement that the tenant was moving out on July 1 and 2nd and moved most of his things out on July 3, 2014. The landlord states that the tenant delayed moving out by November 30, 2014 requiring him to compensate his new tenant \$400.00 for the loss of occupancy for the first week of tenancy in the form of a rent credit. The landlord stated that the tenant asked on July 1, 2014 if he was going to get back his deposits otherwise the tenant was threatening to leave everything the way it was and walk out. The landlord returned \$500.00 in cash on the spot to the tenant. The landlords stated in his written letter that he "has not provided me with his forwarding address in writing."

Analysis

I accept the undisputed evidence provided by the landlord, but find that some of the provided details are inconsistent and conflicting. The landlord has made a monetary claim of damage and seeks recovery of costs for expenses, but has not provided any receipts/invoices for any work or materials used. The landlord stated that he had receipts, but did not keep any of them. The landlord stated that he had a written agreement with his new tenants for providing them compensation of a rent credit for \$400.00 as compensation for the delayed move-in, but has not provided any evidence of such.

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

I find that although the landlord has provided some details of damage he claims was caused by the tenant, the landlord has failed to provide any evidence of an actual amount required for compensation for any part of the losses or repairs. The landlord has failed to provide sufficient evidence to satisfy me of the claim for damages. As such, I find that the landlord has failed to establish a claim for the amount claimed. The landlord's application is dismissed.

Conclusion

The landlord's application is dismissed.

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: December 02, 2014

Residential Tenancy Branch

