



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR MNSD FF

Introduction

This hearing dealt with monetary applications by the landlord and the tenants. The landlord and the tenants participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Are the tenants entitled to monetary compensation as claimed?
Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on March 1, 2011. At the outset of the tenancy, the landlord collected a security deposit from the tenants in the amount of \$475. The parties did not complete a move-in condition inspection report.

In December 2013 the landlord verbally informed the tenants that as of January 2014 he was increasing the rent from \$950 to \$1000. The tenants paid \$1000 per month for rent beginning January 1, 2104.

In May 2014 the tenants informed the landlord that they would be vacating the unit by the end of June 2014. The tenancy ended on or about June 30, 2014. The parties did not do a joint move-out inspection.

Tenants' Application

The tenants applied for double recovery of the security deposit and recovery of rent overpayments.

In regard to the security deposit, the tenants stated that they personally served the landlord with their forwarding address in writing on July 3, 2014. They called the landlord on July 18, 2014 and asked if they were getting their security deposit back and he said no.

In regard to rent overpayments, the tenants stated that the landlord did not properly raise the rent, and they therefore overpaid rent by \$50 per month for six months.

The landlord replied that he did not receive the tenants' forwarding address on July 3, 2014 but on July 10, 2014. He then advised the tenants on July 18, 2014 that their security deposit was not going to be returned. The landlord stated that the tenants never came to do the move-out inspection. The landlord applied on July 22, 2014 to keep the security deposit.

In regard to the rent increase, the landlord stated that he had a verbal agreement with the tenants to increase the rent.

Landlord's Application

The landlord claimed \$1600 for cleaning and repairs:

- 1) \$225 for 15 hours of cleaning at \$15 per hour – the landlord cleaned walls, windows and sills, kitchen and cupboards, bedrooms and shelving, ashes from the fireplace and other miscellaneous cleaning. The landlord submitted photographs showing the dirty condition of these areas of the rental unit;
- 2) \$200 for melted siding on the rear of the shop, due to damage from a barbeque;
- 3) \$100 for damage to the front of the shop, which appeared to be backed into;
- 4) \$50 to finish drywall repair and paint in the kitchen;
- 5) \$25 for glue only to fix bricks on the fireplace; and
- 6) \$800 for materials and labour to replace water-damaged flooring in the kitchen.

The tenants disputed the landlord's claim. They stated that they spent a whole week cleaning the place before they moved out. They stated that the windows leaked and they told the landlord about it. The tenants denied that there was any damage to the

floor, and stated that they wiped up after every time it rained. The tenants submitted that the landlord did not provide any receipts to support his claim.

Analysis

Tenants' Application

When a landlord fails to properly complete a condition inspection report, the landlord's claim against the security deposit for damage to the property is extinguished. Because the landlord in this case did not complete a move-in condition inspection report as required, he lost his right to claim the security deposit for damage to the property.

The landlord was therefore required to return the security deposit to the tenants within 15 days of the later of the two of the tenancy ending and having received the tenant's forwarding address in writing. Whether the landlord received the tenants' forwarding address on July 3, 2014 or July 10, 2014, he did not return the security deposit as required.

Because the landlord's right to claim against the security deposit for damage to the property was extinguished, and he failed to return the tenant's security deposit within 15 days of having received the tenants' forwarding address in writing, section 38 of the Act requires that the landlord pay the tenants double the amount of the deposit. The tenants are therefore entitled to \$950 for double recovery of their security deposit.

The landlord did not increase the tenants' rent in accordance with the Act. A landlord may only increase the rent by either obtaining the tenants' consent in writing or by giving the tenants, at least three months prior to the increase, a notice of a rent increase on the approved form and within the prescribed amount. The landlord did not obtain the tenants' written consent to the rent increase, and the tenants are therefore entitled to recovery of the overpayments totalling \$300.

Landlord's application

The landlord did not complete a move-in condition inspection report with the tenants, and he therefore cannot provide proof of the agreed-upon condition of the unit at the beginning of the tenancy or establish that any damage to the unit occurred during the tenancy. The tenants denied causing the damage that the landlord claimed. I therefore find that the landlord is not entitled to the amounts claimed for damages and repairs.

I do find, however, that the landlord is entitled to compensation for cleaning. The landlord provided photographic evidence of several areas of the rental unit that were not cleaned, and I accept the landlord's evidence that he had to do 15 hours of cleaning. The landlord has claimed a very reasonable rate of \$15 per hour for the cleaning. I therefore grant the landlord \$225 for cleaning.

Filing Fees

As the tenants' application was successful, they are entitled to recovery of the \$50 filing fee for the cost of their application.

The landlord did not apply for recovery of their filing fee.

Conclusion

The landlord is entitled to \$225. The tenants are entitled to \$1300. I grant the tenants an order under section 67 for the balance due of \$1075. This order may be 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: January 20, 2015

Residential Tenancy Branch

