



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MND, MNSD, MNDC, FF

Introduction

In the first application, by filing number, the tenant seeks to recover a \$380.00 security deposit doubled pursuant to s.38 of the *Residential Tenancy Act* (the “Act”).

In the second application the landlord seeks a monetary award of \$2441.75 for the cost of cleaning of and repair to the premises.

There is a move out condition inspection report indicating that the parties had agreed to resolve the landlord’s claim by keeping the entire security deposit.

Issue(s) to be Decided

Does the relevant evidence presented at hearing show on a balance of probabilities that the parties settled the landlord’s claim? If not then is the landlord is entitled to any of the compensation it claims?

Background and Evidence

The rental unit is a one bedroom apartment in a 107 unit apartment building.

The tenancy started in June 2011 and ended November 27, 2014. The rent was \$878.00 per month at the end. The landlord holds a \$380.00 security deposit.

The landlord is the limited company. Mr. K.G., though named as a respondent in the tenant's application, is the resident building manager. He is not the tenant's landlord.

At the end of the tenancy the landlord's representative Mr. K.G. and the tenant, who was accompanied by a woman, possibly his sister, conducted a move out inspection.

The report was the same one used at move in time. The tenant and the landlord's representative had signed it then.

The landlord filled out the remainder of that standard form report form at move-out.

The tenant printed his name and signed the tenant signature line in the box marked "MOVE-OUT INSPECTION" and indicated that he did not agree that the report fairly represented the condition of the rental unit. No reasons were given in the area dedicated for those comments.

The landlord's representative Mr. K.G. filled out the box marked "SECURITY/PET DAMAGE DEPOSIT STATEMENT" to indicate a charge for \$69.00 for "Window Cover Cleaning," \$120.00 for "Other Cleaning" and \$250.00 for "Damage Repair/Replacement." Mr. K.G. filled in the amount \$380.00 in the area designated "BALANCE DUE LANDLORD."

The tenant signed the following area to indicate "I agree with the amounts noted above and authorize the deduction of any Balance Due Landlord from my Security Deposit" He also provided and Mr. K.G. wrote in the tenant's forwarding address.

The tenant says that he is not bound by what he signed because he is legally blind.

The landlord's representative testified that if the deposit statement is not binding on the tenant then the landlord wants more than the \$380.00 it settled for at the move out inspection because repairs and the cost of repairs were much more expensive than expected.

He says that the kitchen linoleum, only four years old, required replacement because of burns and cuts. He says the carpet in the living room and bedroom also four years old, required replacement because of extensive burns. He adduced photos to prove the damage as well as invoiced for the work.

Mr. K.G. also says that the cleaning costs were more than expected and that the wall beside the shower required repair.

The tenant objects to the extra charges, claiming he had hired his own cleaners and that some of the photos were not of his carpet. He says he didn't smoke and did not cause what appear to be cigarette burns in the carpet. His witness notes that the tenant's carpets were beige but that the landlord's photos appear to show an orange carpet.

Analysis

Section 35 of the *Act* mandates that a landlord and a tenant together inspect the rental unit at the end of a tenancy and sign the report the landlord is required to prepare.

The purpose of this requirement is to put the parties together to review the state of the premises for the purpose of resolving any disagreement about them without having to proceed to dispute resolution.

Section 38(4) of the *Act* provides that a landlord may retain an amount from a security deposit or a pet damage deposit if, at the end of a tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant

The existence of a signed condition report settling the question of a landlord's entitlement to compensation is a significant document and should be enforced save in very exceptional circumstances.

In my view, the tenant's claim at hearing that he is legally blind is not one of those circumstances. As with any person, he should properly have satisfied himself about the content of the document he was signing. It would be highly unfair to permit him to later rely on a disability that was apparent to him at the time of signing.

Equally, the landlord settled the matter of its claim for damages in the same agreement. The inspection report is binding on the tenant and it is binding on the landlord.

The parties are bound by the deposit statement they signed authorizing the landlord to deduct the \$380.00 "Balance Due to Landlord" from the \$380.00 security deposit.

Conclusion

The applications are 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: March 29, 2015

Residential Tenancy Branch

