



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, FF

Introduction

This hearing concerns the tenant's application for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

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

Background and Evidence

The unit which is the subject of this dispute is located in the upstairs portion of a house. Other renters occupy the downstairs portion of the house.

A renter ("TR") who is not a party to this dispute had entered into a tenancy agreement with the landlord prior to the start of the tenancy which is the subject of this dispute. In June 2014 "TR" notified the landlord of her wish to end the tenancy. In response the landlord informed "TR" that a proper 1 month notice to end the tenancy would be required, and that "TR" would be responsible for July's rent. Instead, however, "TR" sought to find another renter for the unit and, in the result, the tenant who is the subject of this dispute signed a written tenancy agreement for the unit on June 29, 2014.

Pursuant to the aforementioned tenancy agreement, the subject tenancy began on July 01, 2014. Monthly rent of \$780.00 was due and payable in advance on the first day of each month, and the tenant paid July's rent by way of an email money transfer. "TR" collected the tenant's security deposit of \$390.00, and left it with the downstairs renter ("DT"), along with the new tenancy agreement. When "TR" was ready to vacate the unit she also left the unit key(s) with the downstairs renter, and the tenant later picked up the key(s) from the downstairs renter. There is no move-out condition inspection report in evidence with respect to the end of "TR's" tenancy, and it is understood that the landlord

repaid "TR's" security deposit. Neither is there a move-in condition inspection report in evidence with respect to the start of the subject tenant's tenancy.

While the tenant took possession of the unit effective July 01, 2015, it was not until July 16, 2014, or "one day after the [painting] job was completed," when she moved in. In part, the tenant claims that this was as a result of certain cleaning required in the unit at the end of "TR's" tenancy. However, the delay in moving in also arose from the tenant's desire to have the unit freshly painted. While it appears that the landlord was agreeable to the tenant's wishes concerning new paint, the landlord expressed a preference that the tenant move in only after the painting had been completed. It appears that the tenant then contacted two prospective painting companies and forwarded a price quote to the landlord which had been provided by one. The tenant also informed the landlord that the company providing the quote would be unable to start the job until July 14, 2014, and that the quote was in her view "quite expensive." Further, the tenant informed the landlord that the downstairs tenant was prepared to do the painting in exchange for a reduction in his rent for August 2014, that he would be "less expensive," and that the job could be "completed quicker." The landlord then decided to have the unit painted by the downstairs tenant.

As to compensation the tenant seeks **\$740.00**, as follows:

\$390.00: *reimbursement of ½ month's rent for July 2014*

\$300.00: *cleaning the unit and liaising with potential painting contractors*

\$50.00: *recovery of the filing fee*

Analysis

At the outset, the attention of the parties is drawn to the following particular sections of the Act:

Section 23: **Condition inspection: start of new tenancy or new pet**

Section 24: **Consequences for tenant and landlord if report requirements not met**

Section 35: **Condition inspection: end of tenancy**

Section 36: **Consequences for tenant and landlord if report requirements not met**

Additionally, section 32 of the Act speaks to **Landlord and tenant obligations to repair and maintain**, and provides in part:

32(1) A landlord must provide and maintain residential property in a state of decoration and repair that

- (a) complies with the health, safety and housing standards required by law, and
- (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

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

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....

Based on the affirmed testimony of the parties, the relevant legislation and the documentary evidence which includes, but is not limited to, photographs taken within the unit, the aspects of the tenant's application and my findings are set out below.

I find there is insufficient evidence that the unit overall was not left "reasonably clean, and undamaged except for reasonable wear and tear" when the tenant took possession on July 01, 2014. Nevertheless, I find that certain areas within the unit required additional specific attention to cleaning, and that had the landlord completed a move-out condition inspection with the former renter, this would have been addressed. I also find that the landlord benefited from the tenant's time related to researching potential painting contractors, and that this led to the landlord's decision to have the downstairs renter do the painting. In the result, I find that the tenant has established entitlement to **\$200.00** of the \$300.00 claimed.

While the tenant entered the tenancy agreement without assurances from the landlord that any painting would be done, the landlord nevertheless undertook to have the unit repainted, and the parties agreed that it would be best for the tenant to delay her move in date until after the painting had been completed. Accordingly, I find that the tenant has established entitlement to recovery of approximately 1 week's rent in the amount of **\$195.00**, or half the amount claimed.

As the parties were unable to resolve the dispute directly between them, and as the tenant has achieved a measure of success with her application, I find that she has also established entitlement to recovery of the full **\$50.00** filing fee.

During the hearing the tenant testified that the unit has been sold, and that her tenancy ends effective May 31, 2015. She also provided a forwarding address during the hearing.

Finally, as the end of tenancy nears, the attention of the parties is drawn to section 38 of the Act which addresses **Return of security deposit and pet damage deposit**.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$445.00** (\$200.00 + \$195.00 + \$50.00). 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: May 05, 2015

Residential Tenancy Branch

