



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNDC, FF

Introduction

The landlord applies for a monetary award for unpaid rent from June 2013, for a return of a claimed rent reduction given for the tenants to manage the premises and for damages for cleaning after the tenants left.

During the hearing the landlord also claimed that he had lost some plywood, an automobile tent and possibly an appliance. He acknowledged that he had not claimed those items in his application and that they would not be adjudicated upon as part of this claim.

During the hearing the landlord gave evidence that the tenants caused a flood of the lower suite, forcing that tenant to leave. Again, that claim was not referred to in this application and will not be adjudicated upon in this decision.

Issue(s) to be Decided

Does the relevant evidence presented during this hearing show on a balance of probabilities that the landlord is entitled to any of the relief claimed in the application?

Background and Evidence

The rental unit is the three bedroom upper portion of a house. The lower portion contains a second, separate rental unit.

There is a written tenancy agreement. It discloses that the tenancy started June 1, 2013 for a one year fixed term and then month to month. The rent was \$750.00 due on the fifth of each month. A \$375.00 security deposit was paid.

The tenancy ended in May 2014. The landlord says that the tenants abandoned the premises on May 2. The tenants says they paid the May rent, conducted cleaning in the premises and handed the key over to the new tenant, a Mr. C., on May 26th.

After the end of the tenancy the tenants successfully applied (note: related files shown on cover page) for return of double the security deposit and by a decision dated October 29, 2014, were awarded an \$800.00 monetary award against the landlord. That award has been paid.

By an application heard at the same time the landlord advanced a claim that:

- The tenants were allowed to move in one month early due to the fact that they had agreed to manage the rental property,
- The tenants were also given their first month rent at 50% off, and \$100.00 per month rent reduction for the remainder of the term, for their continued management duties, and
- The tenants failed to do their required management duties and therefore the landlord believes the tenants should be paying for the one month they were allowed to move in early, and the rent reductions that were given for management, for a total of \$2425.00

That claim was dismissed without leave to re-apply.

The landlord testified that it took four days to clean the premises. He presents two invoices, both from the new tenant Mr. C. for cleaning and carpet cleaning in the upper suite. They total \$393.75.

He confirmed the tenants paid only a half month's rent for June 2013 and that he reduced the rent by \$100.00 per month for management services but now claims it all back because the tenants abandoned the home.

The tenant D.C. testified that they paid the May rent in full and though they left on May 2nd, they continued to be at the premises to clean and that the tenant D.P. works "around the corner" indicating that he kept an eye on the rental unit.

She says that the tenant in the lower unit left at the end of May 2014 and not in March as the landlord testified.

She says that there was no mention of a hose causing flooding in the last hearing.

She notes that the tenancy agreement says the rent for the first month was \$375.00

She says that the tenants properly cleaned the premises and did a walk through with Mr. C., the new tenant and he said everything was "OK."

She notes the landlord did not do a move-in or move-out inspection nor prepare any reports.

She objects to the cleaning charges saying that it's the first the tenants have heard about them and asks why they were not dealt with in the last hearing.

In reply the landlord says he did present the cleaning claim in the last hearing and had sent in as evidence the same two cleaning invoices from the new tenant.

Analysis

The landlord's claims for half a month's rent in June 2013 and for return of a claimed \$100.00 per month rent reduction were the subject of the prior hearing. Those claims have been adjudicated upon and dismissed without leave to re-apply.

Even had the evidence in this hearing proved the landlord's entitlement to an award for those items, his claim would fail. He is barred by the legal principle of *res judicata* from having the same issue adjudicated twice. I dismiss that portion of the landlord's claim.

The claim for cleaning is not a claim that was mentioned in the previous decision and so I find that it has not been adjudicated upon between these parties. However, it should have been. A claimant is responsible for bringing forward all his claims then in existence. He cannot divide them up and bring multiple claims. The courts refer to it as an abuse of process and it is viewed the same way in this forum.

Nevertheless, assuming the landlord did make the cleaning claim in the last hearing, but no decision about it was made, I find that he has not presented evidence to establish that the respondents were responsible for any cleaning.

A tenant's duty, imposed by s. 37 of the *Residential Tenancy Act* (the "Act"), is to "leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear."

A landlord is obliged under the *Act* to conduct an inspection with the tenant at the start and at the end of the tenancy and to prepare a report on each occasion. That requirement is meant to avoid disputes exactly like this one.

The landlord has not filed any such report nor a report on the move-in condition with his new tenant in the rental unit. He has provided little if any evidence about the condition of the premises or how it was not “reasonably clean.” In the face of the tenants’ testimony, the landlord has not proved his case. He has not established that cleaning was required in order to bring the premises to the standard of “reasonably clean.”

Conclusion

The landlord’s claim must be 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: June 04, 2015

Residential Tenancy Branch

