



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ANGELA HO
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, MND, O, FF

Introduction

This matter dealt with an application by the Landlord for compensation for damage to the unit, site or property, for compensation for loss or damage under the Act, regulations or tenancy agreement, to recover the filing fee for this proceeding and for other considerations.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the “hearing package”) on December 16, 2015 by personal delivery to the Tenant’s rental unit and then put the documents under the door. The Tenant said she was at the rental unit and received the documents. Based on the evidence of the Landlord and Tenant, I find that the Tenant was served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

Issues(s) to be Decided

1. Is there damage to the unit, site or property and if so how much?
2. Is the Landlord entitled to compensation and if so how much?
3. Is there other damage or loss to the Landlord and is the Landlord entitled to compensation?
4. What other consideration are there?

Background and Evidence

This tenancy started on July 31, 2014 a variable fixed term tenancy. The parties agreed if the tenancy lasted 1 to 3 months the rent was \$525.00, from 4 to 6 months rent was \$500.00 and if the tenancy lasted more than 6 months rent would be \$475.00. The Tenant paid \$475.00 in rent. The Tenant paid a security deposit of \$250.00 on July 10, 2014. No condition inspection reports were completed and signed by the Landlord and Tenant. This tenancy ended on December 1, 2014.

The Landlord said she did not complete a move in or move out condition inspection report, but she said the Tenant and her walked through the unit at the start of the tenancy and everything was fine. The Landlord continued to say at the end of the tenancy she discovered the Tenant had damaged the blinds and had put tape on the floor which damaged the floor. The Landlord requested \$50.00 to repair the blind damage and \$50.00 to repair the floor damage. As well the Landlord request to recover the filing fee of \$50.00.

Further the Landlord said she retained \$100.00 of the Tenant's security deposit to make up for unpaid rent. The Landlord said she did this because the Tenant did not stay the full 6 months so her rent went up from \$475.00 to \$500.00 for the four months the Tenant lived in the unit. The Landlord said the Tenant agreed to the Landlord retaining \$100.00 from the security deposit. The Landlord submitted a written and signed statement from another tenant who was present at this conversation and confirmed the Landlord's account of it. The Landlord said they returned the balance of the Tenant's security deposit of \$150.00 on December 4, 2014.

The Tenant said the unit was not in good condition at the start of the tenancy and the blinds were old and fell off the hinges. As well the Tenant said she did not put tape on the floor and she did not damage the floor. The Tenant said the Landlord is wrong with both of these claims.

As well the Tenant said she did sign the variable fixed term tenancy agreement, but she said English is her second language and so she really did not understand the terms of the tenancy agreement. The Tenant said because she is an international student and did not fully understand the terms of the tenancy agreement the Landlord should return the balance of the security deposit in the amount of \$100.00.

The Landlord said the Tenant fully understood the terms of the tenancy agreement at the start of the tenancy and at the end of the tenancy.

Analysis

Section 23 and 35 of the Act say that a landlord and tenant must do condition inspections to establish the condition of the rental unit at the start and the end of the tenancy. If this is not done and there is no other acceptable evidence of the condition of the rental unit at the start and the end of a tenancy then the applicant cannot establish the amount of damage or if any damage was done to the rental unit.

The Landlord said she did not complete condition inspections at the start of the tenancy and the end of the tenancy. Therefore there is no record establishing the condition of

the rental unit at the start and end of the tenancy. I find the Landlord is unable to establish the condition of the rental unit at the start and end of the tenancy therefore there is no base line to measure any damage from. Consequently I find that the Landlord has not established proof that the Tenant damaged the rental unit. I dismiss the Landlord's application for damages to the unit, site or property without leave to reapply.

With respect to the Landlord claim to retain \$100.00 of unpaid rent from the security deposit. I find that, as both parties signed and agreed to the sliding scale of rent, the Landlord has established grounds to retain \$100.00 of the Tenant's security deposit for unpaid rent. I order the Landlord to retain \$100.00 of the Tenant's security deposit for unpaid rent.

As well since the Landlord was only partially successful in this matter I dismiss the Landlord's request to recover the filing fee of \$50.00 from the Tenant.

Conclusion

The Landlord is ordered to retain \$100.00 of the Tenant's security deposit.

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: July 21, 2015

Residential Tenancy Branch

