



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, FF

Introduction

In the first application the landlord seeks to recover damages for repainting of the suite and for an insurance deductible resulting from damage to her car bumper.

In the second application the tenants seek to recover a security deposit, doubled pursuant to s. 38 of the *Residential Tenancy Act* (the “Act”).

Issue(s) to be Decided

Does the relevant evidence presented during the hearing show on a balance of probabilities that either side is entitled to the relief requested?

Background and Evidence

The rental unit is a one bedroom, ground floor suite. The landlord lives above. There is a second ground floor suite, rented to others.

The tenancy started in August 2014 and ended April 15, 2015. The written tenancy agreement shows that only Ms. L. is a tenant and that Ms. T. is one of two landlords.

The monthly rent was \$750.00. The landlords hold a \$375.00 security deposit.

The tenant Ms. L.’s undisputed evidence is that she personally provided the landlord Ms. T. with a forwarding address in writing on April 17, 2015. The landlord’s application was issued on May 11th. The landlord’s filing fee was paid on May 8th.

The landlord testifies that the tenants left blood stains on a washroom door and wall and other stains elsewhere, along with a scratch. She says that during the move out inspection the applicant Mr. G. got mad when directed to the blood stains and smeared them when he tried to clean one.

She adduced photographs of the alleged deficiencies.

She says the rental unit smelled as well. As a result she had the interior of the suite painted at a cost of \$420.00.

The landlord Ms. T. testifies that the tenant's nephew backed his truck into the front of her car causing damage to the bumper of her vehicle. She adduced photographs of the damage. She says that she will have to pay a \$300.00 insurance deductible in order to have the bumper repaired.

The landlord did not refer to any written move-out inspection report during this hearing.

The applicant Mr. G. testifies that the premises were clean at move out. He presented a video of his own walk through of the suite. He also presented a video that he took, apparently surreptitiously, during the walk through with the landlord at the end of the tenancy.

He says he asked his nephew about the vehicle damage and his nephew denied any such incident.

The support person Ms. H. testified that the nephew's vehicle has a "back up camera" and so such a collision would not have happened. She also refers to the landlord's photos of damage and opines that the damage is not consistent with the landlord's evidence.

Analysis

Under s. 37(2)(a) of the *Act* a tenant must "leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear."

Mr. G.'s first video is a thorough one and shows the premises to be reasonably clean.

The landlord's photo evidence does not adequately show any damage and so it cannot be determined whether the claimed damage existed or was within the category of reasonable wear and tear.

Mr. G.'s second video shows that it is the landlord Ms. T. who is the aggressive participant, not Mr. G. Further, when she points out a spot, Mr. G. offers to clean it but she refuses his right to stay there, saying it his her place now.

The landlord has not shown that the premises needed cleaning, much less a repainting and her application in that regard is dismissed.

The landlord's photo of her bumper damage is consistent with a mark that could have been left by contact with the trailer hitch support on the tenant's nephew's truck. The question remains however: who hit whom?

The damaged area shows a significant lateral scratching during impact. No reasonable scenario is consistent with the flat rear of the nephew's truck moving laterally at the time of impact. Reasonably, only the left front corner of the landlord's vehicle, moving across the rear bumper of the nephew's truck would have caused the scratching damage observed within the impact zone in the photos.

It follows that it was the landlord's vehicle that was moving at the time of impact and I dismiss this item of the claim.

In regard to the security deposit, s. 38 of the *Act* provides that once a tenancy has ended and once the landlord has received a tenant's forwarding address in writing, the landlord must either repay the deposit or make an application to keep it within 15 days. A landlord's failure to comply incurs a doubling of the deposit.

In this case the landlord did not apply within 15 days after the end of the tenancy on April 15 and receipt of the tenant's forwarding address on April 17. The legal tenant Ms. L. is entitled to recover the \$375.00 security deposit, doubled to \$750.00 plus the \$50.00 filing fee.

Conclusion

The landlord's application is dismissed.

The tenant's application is allowed. The tenant Ms. L. will have a monetary order against the landlord in the amount of \$800.00.

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: September 24, 2015

Residential Tenancy Branch

