



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding White Castle Ventures Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNDC, MNSD, FF

Introduction

This was a hearing with respect to the landlord's application for a monetary award and for an order to retain the security deposit. The hearing was conducted by conference call. The landlord's representative and the tenant called in and participated in the hearing.

Issue(s) to be Decided

Is the landlord entitled to a monetary award and if so, in what amount?
Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

The rental unit is an apartment on Coquitlam. The tenancy began November, 2013. The monthly rent was \$1,400.00. The tenant paid a security deposit of \$600.00 and a hydro deposit of \$100.00 at the start of the tenancy.

The tenancy ended and the tenant moved out on February 28, 2015. The landlord conducted a move out inspection with the tenant on March 1, 2015. He said that the tenant left the inspection before it was completed and refused to participate. The landlord claimed that the tenant caused damage to a wall and put gouges in a hardwood floor. The landlord claimed for the cost of repairing the damage. In his application he requested a monetary award in the amount of \$345.00, but in documents submitted in support of the application, the landlord claimed to be entitled to a monetary award in the amount of \$355.00. The landlord claimed \$125.00 to repair and paint wall damage, \$200.00 to repair the scratches in the floor and \$30.00 to replace three lightbulbs. The landlord claimed that the tenant did not provide a forwarding address, but the landlord did submit a cheque to the tenant in the amount of \$295.00 as a partial refund of his security deposit. The cheque was dated March 17, 2015.

The tenant disputed the landlord's claims. He denied responsibility for the scratches on the floor. He said that there was not a proper inspection before the start of the tenancy. The tenant said that the scratches were pre-existing and not his responsibility. The tenant said that the supposed October 2014 condition inspection was not a proper inspection; he was living in the rental unit and the floors were not inspected for scratches. The tenant said that he left the unit in better condition than it was when he moved in.

Analysis

The landlord submitted photographs that showed wall damage some significant holes in the drywall as well as pictures of scratches to the hardwood floor. I am not satisfied that the landlord's condition inspection report can be relied on as an accurate statement of the condition of the rental unit at move in. It was not prepared when the tenant moved in, but was created by the landlord In October, 2014, long after the occupancy of the rental unit commenced.

The landlord submitted a quotation for work to repair the floor and wall, but not an actual invoice for the work. There is no invoice or receipt for lightbulbs. I am not satisfied that the damage noted by the landlord was caused by the tenant after the move-in condition inspection was made in October, 2014. I find that the landlord has failed to prove, on a balance of probabilities, that the landlord is entitled to an award in any amount for the cost of repairs to the rental unit. The landlord's claim for a monetary award is dismissed without leave to reapply.

Conclusion

Residential Tenancy Policy Guideline 17 provides policy guidance with respect to security deposits and setoffs; it contains the following provision:

RETURN OR RETENTION OF SECURITY DEPOSIT THROUGH ARBITRATION

1. The arbitrator will order the return of a security deposit, or any balance remaining on the deposit, less any deductions permitted under the Act, on:
 - a landlord's application to retain all or part of the security deposit, or
 - a tenant's application for the return of the deposit unless the tenant's right to the return of the deposit has been extinguished under the Act. The arbitrator will order the return of the deposit or balance of the deposit, as applicable, whether or not the tenant has applied for arbitration for its return.

In this application the landlord requested the retention of a portion of the security deposit in satisfaction of his monetary claim. Because the claim has been dismissed in its entirety without leave to reapply it is appropriate that I order the return of the balance of the tenant's security deposit; I so order and I grant the tenant a monetary order in the amount of \$405.00, being the balance of the deposit of \$700.00 less the sum of \$295.00 already returned to the tenant. This order may be registered 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: September 29, 2015

Residential Tenancy Branch

