



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The original hearing was conducted on September 3, 2015 via teleconference and was attended by the tenant only. A decision was issued on September 3, 2015 dismissing the landlord's Application and granting the tenant a monetary order for the return of the security deposit.

The landlord subsequently applied for Review Consideration and was granted a new hearing. The new hearing was conducted via teleconference and was attended by the landlord.

This hearing was granted to determine whether or not the original decision issued on September 3, 2015 should be confirmed, varied or set aside.

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on September 23, 2015 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5th day after they have been mailed.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for compensation for damage to the rental unit and for all or part of the security deposit, pursuant to Sections 37, 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted the tenancy began on January 5, 2013 as a 2 year fixed term tenancy that converted to a month to month tenancy on January 6, 2015 for a monthly rent of \$2,400.00 due on the 1st of each month with a security deposit of \$1,200.00 paid.

The landlord submitted that she is not sure when the tenant moved out of the rental unit but stated that she received an email from the tenants on March 17, 2015 stating that they have vacated the rental unit.

While the landlord submits the damage caused to the rental unit was extensive she only seeks to retain the security deposit.

The landlord submitted into evidence several photographs of the condition of the rental unit at the end of the tenancy. The landlord stated the rental unit was in "like-new" condition when the tenancy began. She stated the carpets were new in 2012.

The landlord submits that she hired a person to clean the rental unit at a cost of \$550.00; that she had to make significant repairs that included replacing carpets; repairing a damaged railing; replacing blinds; and painting. The landlord stated the cost of the repairs was in excess of \$8,000.00. No receipts were provided.

Analysis

Section 37 of the *Act* states that when a tenant vacates a rental unit at the end of a tenancy the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear and give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

While I accept the landlord's undisputed testimony and photographic evidence of the condition of the rental unit at the end of the tenancy, I find the landlord has failed to provide any evidence of the condition of the rental unit at the start of the tenancy.

As such, in relation to the landlord's claim for compensation for damage to the rental unit (carpet replacement; damaged railing; blinds; and painting) I find the landlord has failed to establish that the condition of the rental unit resulted during the tenancy and as such, I dismiss this portion of her claim.

However, as the requirement to leave the rental unit reasonably clean at the end of the tenancy is not contingent upon the condition at the start of the tenancy, I find the landlord has provided sufficient evidence to establish that the tenant failed to fulfil his obligations under Section 37 of the *Act* to leave the rental unit reasonably cleaned.

I am also satisfied, based on the landlord's photographic evidence and undisputed testimony that the cost to have the rental unit cleaned was \$550.00.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$550.00** comprised of cleaning costs. I order the landlord may deduct this amount from the security deposit held in the amount of \$1,200.00 in satisfaction of this claim.

Based on this finding I order that the original decision and order issued on September 3, 2015 are hereby set aside.

I grant a monetary order to the tenant in the amount of **\$650.00** representing the balance of the security deposit held. This order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be 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: November 19, 2015

Residential Tenancy Branch

