



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNSD, MNDC, FF

Introduction

The landlords apply for a monetary award for unpaid rent, the cost to repair a leaky tap and damages for damage caused by the leak, as well as the cost of cleaning and rekeying.

All parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Does the relevant evidence presented during the hearing show on a balance of probabilities that the tenant owes rent or that she failed to leave the premises reasonably clean or that she was responsible for rekeying or for a leaky tap and the damage it caused?

Background and Evidence

The rental unit is a one bedroom basement apartment in a house owned by the four landlords. During this tenancy the landlords the --- lived upstairs.

The tenancy started in December 2013. The tenant says she moved out March 2, 2015. The landlords say the tenancy ended at the end of March.

There was no written tenancy agreement.

The monthly rent was \$800.00. The tenant paid a \$400.00 security deposit. On her application heard in September 2015 (file number noted on cover page) she obtained an award against the landlords for return of the deposit money, doubled pursuant to s. 38 of the *Residential Tenancy Act* (the “RTA”). That award has been paid.

The landlord Mr. ----. testifies that the tenant was given a two month Notice to End Tenancy for “landlord use of property” in January 2015 with an effective date of March 31.

The parties were aware that a tenant receiving such a Notice was statutorily entitled to receive the equivalent of the last month’s rent as compensation (s. 51, *RTA*) or to forego payment of the last month’s rent.

He says the tenant stated she would forego payment of the February rent as compensation and then pay the March rent. The landlords wrote to her about it stating they considered that she had elected to end the tenancy at the end of February. The tenant did not make a formal reply.

Mr. ---- says that since the tenant did not give her own written notice to end the tenancy earlier than March 31 (as she was entitled to do on ten days Notice under s. 50, *RTA*), and since she did not pay the February rent, the landlords should be owed that rent.

Mr. ---. says the tenant brought in her own dishwasher; a portable unit of the type that is designed to be attached to a kitchen faucet, and that it caused the faucet to leak. It appears that the tenant reported a leak around the base of the faucet and in February 2014, the landlords paid a plumber \$493.12 to attend and repair it. That plumber installed a faucet more suitable to being attached to a portable dishwasher.

The plumber attended again in January 2015 and install a valve. He noted that the faucet had been leaking “for some time” and that it had caused the arborite countertop to lift. He charged \$400.14.

The landlords claim the tenant should pay both plumber’s bills as well as \$1044.50 quoted to the landlords for the cost or replacing the countertop.

Mr. ---- says that the landlords had to clean between the glass panes on the front of the oven because some liquid had run down between them. He says that he had to clean the carpets, using his own rug shampooer.

He says that the tenant did not return the keys or all of the keys and that the landlords paid \$62.49 to replace the lock and keys.

Mr. ---- also claims postage costs incurred in the dispute resolution process but it was explained at the hearing that such expenses are not awardable. That was made clear to the parties by the arbitrator at their previous hearing.

The tenant says she cleaned the carpets at move-in.

She complains that the landlords failed to conduct a move-in inspection.

She says the kitchen sink was leaking from the start, before she brought in a portable dishwasher, and that the plumbing below the taps and faucet is enclosed in its own cabinet, making it impossible to seek leaks under the taps and faucet. She thinks the leak was due to a failure of the caulking around the faucet. She says at his first attendance the landlords' plumber told her that using the dishwasher would not create a problem.

She says the rental unit was "spotless" on move out, though she says that maybe something got between the glass of the oven door. She says she tried to arrange a move out inspection but the landlords (Ms. ----.) was not co-operative. She attended at the premises on March 8 and Ms.---. refused to conduct a move-out inspection with her.

She says she tried to return the key but the landlord shut the door on her.

Analysis

I have considered all the relevant evidence presented during this hearing though it all may not be referred to in this decision.

February Rent

In the face of the landlords' February 3 email letter to the tenant they cannot now claim a month's rent. The tenant was not entitled to unilaterally forego payment of anything but her last month's rent under the two month Notice. The landlords could have responded to her stating that. Instead they chose to consider February her last month and state that they considered the tenancy would end February 28th.

The tenant is still entitled to her one month's free rent, due under the two month Notice, whether she ended the tenancy early or not. Since the landlords retook possession at the start of March they cannot fairly claim compensation for rent for that month. Therefore, I dismiss this item of the claim.

The Faucet Leak and Related Costs

It may be that the tenant's dishwasher caused the faucet to leak. However, that has not been proved on a balance of probabilities at this hearing. Even if it had, it does not automatically follow that she is liable. The rental unit came without a dishwasher. It was reasonably foreseeable and, in my view, not unlikely, that in such a case a tenant would use a portable dishwasher and it was foreseeable that the dishwasher would be attached to the kitchen faucet. That is how portable dishwashers function.

The tenant could reasonably expect that the kitchen tap would service the dishwasher.

The tenant did not do anything wrong by bringing in and using the portable dishwasher. There is nothing in the evidence to indicate that she ignored or failed to report leakage that might have resulted from its use.

In these circumstances the tenant is not liable for the cost of the plumber or for any water damage to the countertop.

Cleaning

The tenant does not deny that the oven window required cleaning between its panes. I award the landlords \$55.00 for that cleaning, as claimed.

In regard to the carpets, notwithstanding the condition of the premises at the start of a tenancy, a tenant is required to leave premises reasonably clean when she goes. Residential Tenancy Policy Guideline #1 "Landlord & Tenant - Responsibility for Residential Premises" states that after a tenancy of a year, a tenant is responsible to have the carpets steam cleaned or shampooed.

There is no evidence to indicate this general rule should not apply in this case: for example that the tenant had the carpets cleaned a few months before leaving. I therefore award the landlords \$110.00 for carpet cleaning, as claimed.

Keys

Even if what the tenant says is correct, she should have left the key or mailed it to the landlords. When a landlord is not returned the key, or all the keys, he or she is entitled to the cost of re-doing the locks on a rental unit. I therefore award the landlords \$62.49 for the locksmith charges.

Conclusion

The landlords are entitled to a monetary award totalling \$227.49.

As they have been only partially successful I grant them recover of \$25.00 of the filing fee.

The landlords will have a monetary order against the tenant in the amount of \$252.49.

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: March 06, 2016

Residential Tenancy Branch

