



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for damage to the rental unit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing by conference call and provided affirmed testimony. The landlords stated that the tenants were both served with the notice of hearing package and the submitted documentary evidence by Canada Post Registered Mail on September 21, 2015. The tenant confirmed receipt of the landlords' notice of hearing package and the submitted documentary evidence. The landlords confirmed receipt of the tenants' submitted documentary evidence. As both parties have attended the hearing and have confirmed receipt of the submitted documentary evidence submitted by the other party, I am satisfied that both parties have been properly served as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Are the landlords entitled to a monetary order for damage to the rental unit, for money owed or compensation for damage or loss and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties confirmed that the tenancy began in November 2012 and ended on April 30, 2015. Both parties confirmed that a signed tenancy agreement was made in which the monthly rent began as \$2,000.00 and ended at \$1,800.00 which was payable on the 1st day of each month. Both parties confirmed that a condition inspection report for the move-in and the move-out were completed. Both parties confirmed that the landlord returned to the tenant the entire security deposit on May 6, 2015.

On June 8, 2015 the landlords found damage to the rental premises which were beyond normal wear and tear. The landlords stated that repairs/renovations took place from June 8, 2015 to July 6, 2015 and again from July 19, 2015 to July 31, 2015. The landlords stated that most of the rental unit was like new at the beginning of the tenancy.

The landlord seeks a monetary claim of \$7,713.00 which consists of:

\$475.31	Recovery of ½ the price of damaged stove
\$8.26	Naval Jelly, Removal attempt of damaged stove top
\$1,126.00	Replacement of 2 doors and installation, Refrigerator
\$86.27	Awning and Roof Repairs
\$105.00	Pet Stains, Cleaning not done
\$774.89	Pet Stains and damage
\$1,992.22	Window Replacement Damage, pellet hole
\$171.26	Paint, Drywall and materials
\$56.49	Irrigation and lawn damage
\$200.44	Broken jets, pillows missing
\$36.94	Utility trailer repairs
\$19.43	Shopvac filter & tarp
\$20.80	for debris removal
\$2,640.00	labour charges

The landlords relies upon:

31 Photographs of the rental premises as of June 8, 2015
56 pages of written submission, copies of receipts and invoices.

The tenants dispute the landlords claims stating that a condition inspection report was completed by the landlords' agent (the property manager), J.J. on April 30, 2015. The landlords' agent noted at the end of the tenancy two comments, "awning starting to pull away" for the exterior and "water damage" noted for the main bathroom ceiling. The tenants have provided copies of online payment of utilities as of April 13, 2015 paid in full. The tenants have also provided a copy of a "Distribution Account & Descriptions" which shows that the complete security and pet damage deposits totalling, \$2,000.00 was paid to the tenant in full on May 6, 2015.

The landlords argued that the landlord's agent "did not do a good enough job".

The tenants argued that the rental unit was left immaculate on April 30, 2015 as shown by the condition inspection report for the move-out on April 30, 2015 and is confirmed as such since the landlords' agent returned the entire security and pet damage deposits on May 6, 2015 without any comments or concerns.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

In this case, the landlords relied upon photographs of damage to the rental premises dated as of June 8, 2015. The landlord has also provided copies of invoices and receipts showing that a good portion of the rental unit was like new at the beginning of the tenancy. A review of the condition inspection report for the move-in completed on November 26, 2012 shows that a total of 7 notations were made on the condition of the rental unit, but that it was noted as "good" in general. A review of the move-out portion of the report only shows two notations and noted as "good" in general. The landlords rely upon photographic evidence as of June 8, 2015 which the tenant has disputed since the tenants gave possession of the rental unit back to the landlords' agents on April 30, 2015. The tenants stated that they are not responsible for the rental premises after April 30, 2015. The tenant has provided evidence of the condition of the rental unit at the end of the tenancy as of April 30, 2015 and has noted that the landlords' agent returned the entire security and pet damage deposits without comment or issues on May 7, 2015. On a balance of probabilities, I find that the landlords have failed to provide sufficient evidence to satisfy me that the tenants caused damage to the rental premises as claimed by the landlords during the tenancy.

Conclusion

The landlords' application is dismissed.

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 31, 2016

Residential Tenancy Branch

