



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR MNSD MNDC FF

Introduction

This hearing dealt with monetary applications by the landlord and the tenants. The landlord and the tenants participated in the teleconference hearing on both scheduled dates.

The hearing first convened on January 7, 2016. At that time, the landlord stated that she had only received the tenants' application three days before the hearing and she had evidence she wished to submit in response. I therefore determined that it was appropriate to adjourn the hearing.

The hearing reconvened on March 3, 2016. On that date, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?
Are the tenants entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on December 1, 2014. Rent in the amount of \$2,000.00 was payable in advance on the first day of each month. At the outset of the tenancy, the tenants paid the landlord security and pet deposits totalling \$2,000.00.

In February 2015 the tenant notified the landlord that water was leaking down into the basement from the sink hose from the kitchen above. The landlord called in contractors to assess damage and do repairs. On March 30, 2015 the contractors informed the landlord of a second leak in the ensuite bathroom. The tenancy ended on June 30, 2015.

Landlord's Claim

The landlord submitted that the tenants were responsible for the water leak under the kitchen sink. The landlord stated that the tenants allowed their dogs to "use the house as a bathroom." The landlord stated that the tenants did not do the required cleaning and repairs to the rental unit at the end of the tenancy.

The landlord claimed compensation as follows:

- 1) \$2,000.00 for the insurance deductible for repairing water damage – the landlord stated that the leak under the kitchen sink occurred because of water visibly running down the kitchen sink hose and into the flooring;
- 2) \$2,127.62 to install a new underpad and removed underlay that was badly damaged by urine from the tenants' pets;
- 3) \$962.50 for lawn maintenance – the landlord stated that the tenants did not do required lawn maintenance, and the landlord has claimed for 10 visits of 2.5 hours each, at \$38.50 per hour;
- 4) \$154.00 for four hours of cleaning up after the tenants' dogs;
- 5) \$231.00 for 6 hours of weeding, pruning and pulling up plants; and
- 6) \$61.58 for replacement of bathroom rugs and an area rug.

The tenants denied responsibility for the water leak. They stated that the repair assessment does not provide evidence that the tenants were responsible. The tenants submitted that the house was old and required plumbing and electrical repairs. The tenants stated that the landlord did not do a move-in inspection. The tenants acknowledged that the dogs had some accidents inside the house, but they did not know if there were pets in the house before them. The tenants submitted that the company that provided a quote for replacement carpeting is the landlord's boyfriend, and the quote is biased and excessive.

Tenants' Claim

The tenants claimed recovery of their pet and security deposits. Additionally, they claimed compensation for loss of quiet enjoyment due to the landlord's unannounced visits, photo-taking and neighbours spying on the landlord's behalf. The tenants also claimed compensation for loss of services or facilities during the tenancy, including: a plugged dishwasher; the kitchen under repairs; a bedroom with no heat for the winter; approximately three weeks of no use of the ensuite bathroom; one basement bedroom unfit for occupancy for lack of heat and water damage; leaking and loss of heat in the basement; lack of light, electricity, wifi and cable for periods of time in different locations; loss of use of the balcony and loss of access to that entry for 20 days; and an inability to have guests due to repairs for the last two months of the tenancy. The tenants provided calculations of their estimated reduction in the value of their tenancy for each of these issues, and the total claim of the tenants is \$9,484.42.

The landlord's response to the tenants' claim was as follows. The landlord stated that she lived in the rental unit for nine years before renting it, and she never had any issues. The landlord denied that the house is old and falling apart. The landlord stated that every time the tenants brought a problem to her attention, she went over and above to address the problem. The landlord stated that after the water leak she tried to get repairs done while the tenants were away. The landlord acknowledged that the deck needed updating and one bedroom was uninhabitable while work was being done on it; however, the loss of use of some areas of the unit and the interruptions by contractors was due to damage done by the tenants.

Analysis

Landlord's application

I find that the landlord has failed to provide sufficient evidence to establish that the tenants caused the water leak to occur under the kitchen sink. It is not sufficient to merely speculate that the problem had been occurring for some time and the tenants ought to have noticed it. I therefore dismiss this portion of the landlord's claim.

The tenants acknowledged that their dogs did have some accidents in the house. I therefore find that the landlord is entitled to some compensation for replacement of the underlay. However, the landlord did not do a move-in condition inspection, and there is therefore no evidence of the agreed-upon condition of the unit at the beginning of the tenancy. Further, I accept the tenants' concern that the landlord's boyfriend is the owner of the company that provided the one quote for this work. The landlord ought to have

provided at least one other quote by an independent company. I therefore grant the landlord a nominal award of \$200.00 for replacement of the underlay.

In the absence of a condition inspection report or a tenancy agreement, it is difficult to ascertain the condition of the rental unit and property at the beginning of the tenancy or the agreement regarding care of the unit and property. Further, the landlord did not provide sufficient evidence to establish entitlement to the hourly rate of \$38.50 per hour or the amount of time claimed to do cleaning and yard work. However, a tenant who has exclusive use of a yard generally has the responsibility to do basic yard work such as lawn mowing. I therefore grant the landlord a nominal award of \$200.00 for yard work and picking up after the tenants' dogs. I am not satisfied that the landlord has provided sufficient evidence of the damage, the age or the quality of the rugs for which she has claimed compensation in full.

Tenants' Application

I accept the tenants' evidence that there was loss of use of some facilities or services at times during their tenancy. I also accept the tenants' evidence that they suffered a loss of quiet enjoyment when electricians and plumbers repeatedly attended the rental unit. However, the tenants could have applied for dispute resolution during their tenancy to address these issues. Furthermore, the tenants have applied for compensation for loss of use and loss of quiet enjoyment for periods of time that they were away on vacation, and they did not provide sufficient evidence of the extent of the loss of use of items such as the deck or the basement bedroom. I therefore find that the tenants are entitled to a nominal award of \$400.00.

The tenants are entitled to recovery of their security and pet deposits, but they are not entitled to double recovery, as the landlord filed their application within fifteen days of the end of the tenancy.

Filing Fees

As neither application was fully successful, I decline to award the landlord or the tenants recovery of their respective filing fees for the cost of their applications.

Conclusion

The landlord's award of \$400.00 and the tenants' award of \$400.00 offset each other and leave a zero balance. I grant the tenants an order under section 67 for the return of

the pet and security deposits, in the amount of \$2,000.00. This order may be filed 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: April 1, 2016

Residential Tenancy Branch