



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LIGHTHOUSE REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was scheduled for 2:30 p.m. on April 12, 2016 to deal with monetary cross applications. The landlords filed for compensation for over-holding; failure to return keys; damage and cleaning; and, authorization to retain the security deposit. The tenant applied for return of the security deposit.

Both parties appeared at the commencement of the hearing and confirmed receipt of the hearing documents of the other party. After both parties had an opportunity to be heard, and during the time the landlord was providing rebuttal evidence, at approximately 3:26 p.m. the tenant stated she was not going to listen to the landlord any longer and she hung up. I continued to hear the landlord's rebuttal testimony after the tenant hung up and during that time the tenant did not reconnect to the hearing despite leaving the teleconference call open. Since the tenant left the hearing before it was concluded I dismissed the tenant's application without leave to reapply.

On a procedural note, after the tenant left the hearing, the landlord limited the amount of compensation sought to that of the security deposit.

Issue(s) to be Decided

1. Has the landlord established an entitlement to compensation from the tenant in an amount equal to the security deposit?
2. Is the landlord authorized to retain the security deposit?

Background and Evidence

The parties were in agreement as to the terms of tenancy. The tenancy commenced on June 3, 2015 for a one year fixed term set to expire on May 31, 2016. The landlord collected a security deposit of \$337.50 and a pet damage deposit of \$337.50 at the start of the tenancy. The tenant was required to pay rent of \$675.00 on the first day of every

month. The tenant vacated the rental unit late in the day on September 1, 2015 and the landlord regained possession of the unit on September 2, 2015. The landlord has refunded the pet damage deposit to the tenant but is still holding the security deposit pending the outcome of this proceeding.

Condition inspection reports were not prepared by the landlord at the beginning or end of the tenancy.

Below, I have summarized the landlord's claims against the tenant and the tenant's responses.

Over-holding

The landlord seeks two days of over-holding in the amount of \$45.00 since the tenant did not vacate the rental unit by August 31, 2015. The tenant vacated the rental unit late in the day on September 1, 2015 but due to the time the landlord did not regain possession and confirmed the tenant was gone until the following day. The tenant submitted that it was an error by her moving company that resulted in her not being able to vacate the rental unit by August 31, 2015. The tenant testified that she was able to rent the moving truck for September 1 or 2, 2015.

Damage to deck and walls

The landlord seeks compensation of \$267.79 to repair the deck covering and interior walls.

The landlord submitted that the tenant stained the deck with red paint and then tried to paint over the deck covering with grey paint but did not finish the work and the landlord had to re-paint the deck. The tenant acknowledged trying to paint the deck covering and explained that she used the wrong paint so it was not adhering well and she stopped. The tenant was of the position the deck covering was old and chipped and that \$75.00 would be more reasonable compensation to the landlord. The landlord submitted that the deck covering was vinyl and had been installed 1.5 years prior after a fire.

The above claim also includes labour to patch and sand holes in the walls created by the tenant installing shelves. The tenant acknowledged installing a small shelving unit but claims the walls had pre-existing holes and the unit was in need of painting. The landlord responded by stating the unit has been checked thoroughly with the tenant at the start of the tenancy or there was no pre-existing wall damage.

Carpet cleaning

The landlord seeks carpet cleaning costs of \$84.00 because the tenant did not have the carpets cleaned at the end of the tenancy. It was undisputed the tenant had a pet in the rental unit. The tenant was of the position the carpets were not clean at the start of the tenancy. The landlord responded by stating the carpets were cleaned at the start of the tenancy.

Locks

In filing this application, the landlord had also indicted that new locks had to be installed because the tenant did not return the keys; however, I noted that in the details of dispute landlord did not specify an amount. Nor, was a Monetary Order worksheet prepared indicating a claim for a specific amount for locks. Further, the landlord's evidence provided for varying amounts for locks. For instance, in the landlord's ledger an amount of \$50.00 appears for new locks and there is an invoice the amount of \$90.00 for new locks and a service call. Since the landlord did not claim a specific amount and the evidence did not clearly indicate the amount sought for locks, I found the landlord did not sufficiently indicate the amount claimed and I did not consider it further.

Analysis

With respect to the landlord's claims for compensation against the tenant, I provide the following findings and reasons.

Over-holding

Both parties were in agreement that the tenancy was expected to come to an end on August 31, 2015. Accordingly, the tenant was required to return vacant possession of the rental unit by 1:00 p.m. on that date. The tenant failed to meet this obligation and the landlord is entitled to compensation for over-holding as provided under section 57 of the Act. Having heard the tenant vacated the rental unit late in the day on September 1, 2015 I find the landlord entitled to over-holding for one day which I calculate to be \$21.77 ($\$675.00 \times 1/30$).

Damage to deck and walls

Section 32 of the Act requires a tenant to repair damage they caused by way of their actions or neglect. Section 37 requires a tenant to leave a rental unit undamaged at the end of the tenancy.

In this case, it was undisputed that the tenant partially painted over the deck covering and that the portion she did paint did not adhere properly. Accordingly, I find the tenant responsible for compensating the landlord for repairing this damage. The tenant submitted that the deck covering was old and chipped; however, the landlord rebutted this position and the tenant did not remain at the hearing to further dispute the landlord's rebuttal. Accordingly, I accept the landlord's position that the deck covering had been replaced approximately 1.5 year prior and was in otherwise good condition. Therefore, I find the landlord entitled to recover the full cost to repaint the deck from the tenant.

I also heard undisputed evidence that the tenant had installed a shelving unit in the rental unit. I accept the landlord's position that the holes created were larger than other holes and the tenant is responsible for repairing these holes. Further, I accept the landlord's rebuttal position that the walls were in otherwise good condition at the start of the tenancy considering the tenant did not remain at the hearing to further dispute this position.

In light of the above, I grant the landlord's requires to recover the cost of \$267.79 as claimed for painting the deck and patching the walls.

Carpet cleaning

Under section 37 of the Act, a tenant is required to leave a rental unit reasonably clean at the end of a tenancy. There is no exception to this requirement and I find it reasonable to expect that if a tenant has issues with respect to the state of cleanliness at the start of the tenancy the tenant should raise it as an issue at the start of the tenancy rather than raise it as a defence to the tenant's obligation to leave a rental unit reasonably clean at the end of the tenancy.

Residential Tenancy Policy Guideline 1 provides policy statements as to what is considered reasonably clean, among other things. The policy guideline provides that tenants are ordinarily held responsible for carpet cleaning if the tenancy is greater than one year or if the tenancy is shorter in duration but the tenant had an uncaged pet in the rental unit.

Although this tenancy was less than a year in duration, the tenant had a pet cat in the rental unit. Therefore, I find the tenant responsible for cleaning the carpet at the end of the tenancy and I grant the landlord's request to recover compensation of \$84.00 from the tenant.

Security deposit

For the reasons given above, I have found the landlord entitled to compensation of at least \$373.56 from the tenant. Since the landlord still holds the tenant's security deposit and the landlord limited the claim to the amount of the security deposit, I authorize the landlord to retain the security deposit in satisfaction of all of the amounts awarded to the landlord.

Conclusion

The landlord has been authorized to retain the tenant's security deposit in satisfaction of the amounts awarded to the landlord by way of this decision.

The tenant's application has been dismissed without leave.

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: May 03, 2016

Residential Tenancy Branch