



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ZORNES INVESTMENTS INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for damages to the unit, for an order to retain a portion from the security deposit and pet damage deposit (the “Deposits”) in full satisfaction of the claim and to recover the filing fee from the tenant.

The landlord’s agent attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord’s agent testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on December 10, 2015 or December 11, 2015. The agent stated that the tenant received the package.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act.

The landlord’s agent appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the landlord entitled to monetary compensation for damages?

Is the landlord entitled to retain a portion of the Deposits in full satisfaction of the claim?

Background and Evidence

The tenancy began on April 29, 2015. Rent in the amount of \$765.00 was payable on the first of each month. A security deposit of \$382.50 and a pet damage deposit of \$300.00 was paid by the tenant. The tenancy ended on November 30, 2015.

A move-in and move-out condition inspection report was completed. Filed in evidence is a copy of the report.

The landlord's agent testified that that they withdraw their claim for unpaid utilities as that had now been paid by the tenant.

The landlord's agent testified that the tenant agreed in the move-out condition inspection report that they left the rental unit dirty as described in the report. The agent stated that the cost of cleaning was \$220.00 and they paid \$19.03 for a spray to mask the cat urine smell. The landlord seeks to recover the amount of \$289.03, which also includes the filing fee.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Under section 37 of the Act, the tenant is required to return the rental unit to the landlord) reasonably clean and undamaged, except for reasonable wear and tear. Normal wear and tear does not constitute damage. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

I accept the undisputed testimony of the landlord's agent that the tenant left the rental unit unreasonably clean. That is supported by the move-out condition inspection report and receipts.

I find that the landlord has established a total monetary claim of **\$289.03** for cleaning costs and the \$50.00 fee paid for this application.

I order that the landlord retain the amount of **\$289.03** from the Deposits in full of the claim and the balance of the Deposits in the amount of **\$393.47** is to be returned to the tenant.

I grant the tenant a formal order for the balance due of their Deposit, should the landlord fail to return the balance of the Deposits as directed.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order and may keep a portion of the Deposits in full satisfaction of the claim and the tenant is granted a formal order for the balance due of their Deposits.

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: July 05, 2016

Residential Tenancy Branch