



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlords seeking a monetary order for damage to the unit, site or property; for an order permitting the landlords to keep all or part of the security deposit or pet damage deposit; and to recover the filing fee from the tenants for the cost of the application.

The landlords both attended the hearing, one of whom gave affirmed testimony, and the landlords have provided evidentiary material in advance of the hearing. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenants attended the call. One of the landlords testified that each of the tenants was individually served with the Landlord's Application for Dispute Resolution, notice of this hearing, and evidence by registered mail on May 19, 2016.

About 17 minutes after the scheduled time for the hearing, both tenants joined the call. The first landlord had already commenced affirmed testimony. The hearing did not recommence, however both tenants also testified. The parties were also given the opportunity to question each other.

All evidence, and the testimony of the parties, is considered in this Decision.

Issue(s) to be Decided

- Have the landlords established a monetary claim as against the tenants for damage to the unit, site or property?
- Should the landlords be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The first landlord testified that this fixed term tenancy began on February 15, 2015 and expired after 6 months, and the tenants remained in the rental unit after that on a month-to-month basis until April 30, 2016. The rental unit was rented to 3 tenants and each was to pay a portion of the \$1,200.00 per month rental, and there are no rental arrears. In September, 2015 the landlord collected a security deposit from the tenants in the amount of \$300.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is a basement suite, and the landlords reside in the upper level of the home.

A move-in condition inspection report was completed at the beginning of the tenancy and a move-out condition inspection report was completed at the end of the tenancy. Copies of both reports have been provided. The landlord testified that the tenants left 450 holes in the walls from tacks to hold pictures and to hold a blanket that the tenants had placed over a window. There was also damage to a door frame.

The landlords have provided a Monetary Order Worksheet setting out the following claims:

- 20.00 for painting the front door frame and hallway door;
- \$28.78 for paint for the entrance frame;
- \$197.00 for repair to the master bedroom; and
- \$72.67 for supplies for repairing the mater bedroom.

The landlords' total claim is \$318.45, and the document states that the first 2 items are 2/3 of the actual invoice. The landlords claim that amount as against the tenants and seek to keep that portion of the security deposit. The third tenant has paid a share which is why the landlords claim 2/3 of the actual invoices.

The first tenant (KAJ) testified that the tenants had to help the previous tenant remove pictures and things from the walls which left tack holes. The tenants moved their belongings into the bedroom and hung their own pictures with permission from the landlords, and a blanket over the blinds because they were not sufficient. The tenants used 4 or 5 tacks to keep the blanket up, but it came undone.

The tenant is not sure what happened to the door frame.

The landlord asked the tenants to paint the bedroom, and they were going to do so, but more toward the end of the tenancy, the tenant's mother who is a painter, called the landlord offering to paint for free, but the landlords didn't call her.

The tenant disputes any damage to the front entrance, and any damage is normal wear and tear. The tenant also disputes damage to the bedroom and testified that the only room the tenants used was the bedroom except for cooking and bathroom facilities and had no furniture in any other rooms of the rental unit.

The second tenant (DKC) testified that the previous tenant left holes in the walls of the bedroom from pictures and a clock. Before moving in, the tenants talked to the landlords and helped the previous tenant move items out of that bedroom to the crawl space. When asked about the tack holes, the tenant testified that he has no idea how many were in the walls, but none were visible from the doorway.

The tenant didn't pay much attention to any damage to the front door.

The tenant further testified that he attended for the move-out condition inspection which was scheduled for 1:00, however the landlord was sleeping and the tenant was told to return at 4:00, but the tenant was unable to do so.

Analysis

Where a party makes a monetary claim for damages against another party, the onus is on the claiming party to satisfy the 4 part test:

1. That the damage or loss exists;
2. That the damage or loss exists as a result of the other party's failure to comply with the *Act* or the tenancy agreement;
3. The amount of such damage or loss; and
4. What efforts the claiming party made to mitigate any damage or loss suffered.

Also, the *Residential Tenancy Act* states that the move-in and move-out condition inspection reports are evidence of the condition of the rental unit at the beginning and end of the tenancy. I have reviewed the reports and there is no mention in the move-in condition inspection report of damage to the walls or door frames. It also says that the tenants agree to the condition of the rental unit as contained in that report. The move-out condition inspection report shows damages and that the tenants disagreed with the report and that the damage was pre-existing. However, the move-in condition inspection report shows no damages at the commencement of the tenancy, and the tenants agreed to that report.

The landlords have provided evidence of paying the amounts they have claimed in order to complete the repairs, and I am satisfied that the landlords have established the \$318.45 claim.

Since the landlords have been successful with the claim, the landlords are also entitled to recovery of the \$100.00 filing fee.

I order the landlords to keep the \$300.00 security deposit in partial satisfaction of the claim and I grant a monetary order in favour of the landlords as against the tenants for the difference in the amount of \$118.45.

Conclusion

For the reasons set out above, I hereby order the landlords to keep the \$300.00 security deposit and I grant a monetary order in favour of the landlords as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$118.45.

This order is final and binding and may be enforced.

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: October 27, 2016

Residential Tenancy Branch