



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNDC MNSD FF

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

Landlord:

- a monetary order for compensation for loss and damage pursuant to section 67;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Tenant:

- authorization to obtain a return of all or a portion of the security deposit pursuant to section 38;
- an order for the landlord to comply with the Act pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord testified that on May 11, 2016, a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the tenant by registered mail. As per the registered mail tracking search submitted by the landlord, the tenant signed for receipt of the package on May 13, 2016.

Based on the above evidence, I am satisfied that the tenant was served with the landlord’s Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. In the absence of the tenant’s participation, the hearing proceeded on the landlord’s application and the tenant’s application is dismissed without leave to reapply.

Issues

Is the landlord entitled to a monetary award as compensation for loss and damage to the rental unit?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background & Evidence

The rental unit is a fully furnished 1-bedroom condominium unit. The tenancy began on November 1, 2014 with a monthly rent of \$2200.00 payable on the 1st day of each month. The tenant paid a security and pet deposit of \$2200.00 at the start of the tenancy. The tenancy ended on March 31, 2016. The tenant's security deposit was returned in full on May 10, 2016.

The landlord's application for dispute resolution was filed on May 10, 2016. In the application the landlord seeks compensation related principally to damages caused by the tenant to the furnishings provided with the rental unit. In support of his claim, the landlord provided the following:

- Before and after pictures of the furniture including the sofa, love seat, mattress, mattress cover, bed, bedding set, mattress protector and sofa cushions.
- Original purchase receipts for each of the above items with the exception of the sofa cushions for which the landlord submitted a quote for restoration.
- Invoices for cleaning and junk removal.

The landlord submits the before pictures were taken before the tenancy began on October 31, 2014 and the after pictures at the end of the tenancy. The landlord submits the tenant's cat caused the damage to the furnishings in the rental unit. The landlord submits the sofa and loveseat were purchased in December 2009. The landlords resided in the rental unit until it was rented to the tenant in November 2014. The landlord is claiming 50% of the purchase price of the sofa and loveseat, as they were previously used items. For the remaining items, the landlord testified they were purchased new for the tenant at the start of the tenancy and is claiming 100% of the original cost. The landlord submits that each of these items were so badly damaged that they had to be disposed of. For the sofa cushions the landlord is claiming the cost of restoration as per the quote submitted. The landlord submitted a monetary order worksheet detailing the amounts claimed for each of the above items.

The landlord agreed in the hearing to withdraw the claim for item #1 as this was a claim for retaining the security deposit which has since been returned and the tenancy has ended.

Analysis

Section 7 of the Act provides for an award for compensation for damage or loss as a result of a landlord or tenant not complying with this Act, the regulations or their tenancy agreement.

Section 37 of the Act requires that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonable clean and undamaged except for reasonable wear and tear.

I accept the landlord's testimony and photo evidence in support of the landlord's claim that the tenant did not leave the rental unit reasonably clean and undamaged as per section 37 of the Act. I accept the landlord's testimony and photo evidence that with the exception of the sofa cushions, all other items were damaged beyond repair.

The sofa and loveseat were purchased new in 2009. Residential Tenancy Policy Guideline 40, Useful Life of Building Elements, provides that furniture has a useful life of 10 years. As these items were 6.25 years old at the end of the tenancy, they only had 3.75 years of useful life remaining. As such, I find the landlord is entitled to 37.5% of the actual cost (\$4560.64) of this furniture for an award of **\$1,710.24**.

As the remaining items were purchased new at the start of the tenancy, based on a similar useful life, they would have had approximately 8.58 years of useful life remaining (10 years – 1 year plus 5 months). As such, I find the landlord is entitled to 85.8% of the actual cost (739.19+883.31+178.46+218.40+57.74) of this furniture for an award of **\$1,782.15**.

For the cleaning and junk removal I find the landlord is entitled to the amounts as claimed as supported by the invoices for an award of **\$465.60**.

As the landlord was successful in this application, I find that the landlord is entitled to recover the **\$100.00** filing fee paid for this application for a total monetary award of **\$4,057.99**.

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of **\$4,057.99**. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: October 26, 2016

Residential Tenancy Branch