Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. A Monetary Order for damage to the unit - Section 67; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenants did not attend the hearing. I accept the Landlord's evidence that each Tenant was served with the application for dispute resolution and notice of hearing (the "Materials") by ***registered mail*** in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenants are deemed to have received the Materials. The Landlords were given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started on August 26, 2015 and the keys to the unit were returned to the Landlord on November 28, 2015. Rent of $1,500.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected $1,500.00 as a security deposit. Some of this amount was included as a propane deposit. The Parties mutually

conducted a move-in inspection with a completed condition report. The Landlord believes that a copy of this report was provided to the Tenants. The Parties mutually conducted a move-out inspection with a completed condition report copied to the Tenants.

The Tenants have not provided any forwarding address. The Landlord obtained the Tenants' residential address as provided on the application through a skip tracer. The Landlord claims the cost tracing the Tenants.

The Landlord states that the Tenants left 2/3 of the hardwood floor in the living room and hallway with marks caused by a child's toy. The Landlord states that the flooring was new at the outset of the tenancy. The Landlord states that the floors have not been replaced as the new tenants who are paying the same rental rate did not want the bother. The Landlord states that the floors could not be repaired. The Landlord claims the costs for the removal and disposal of the old flooring and the costs of the new flooring and its installation. The Landlord claims the replacement costs of the hardwood floors and provides estimates for these costs.

Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred. The Landlord did not provide any photos as evidence to show the extent of the damage beyond reasonable wear and tear and I consider that some marks are to be expected by normal and regular use of a floor. There is no evidence that the floors were no longer useable as a result of the damage. The Landlord did not provide any evidence of attempts to

reduce the costs being claimed. Finally as the Landlord has incurred no replacement or repair costs or losses in rental income as a result of the state of the flooring, I find that the Landlord has not sufficiently substantiated the costs claimed and I dismiss this claim.

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. The only time the Act requires a tenant to provide a forwarding address is when the tenant seeks return of the security deposit. As nothing in the Act otherwise requires a Tenant to provide a forwarding address, and as the Tenant has not made an application for the return of the security deposit, I find that the Landlord has failed to substantiate that the Tenant breached any part of the Act or tenancy agreement by not providing a forwarding address. I therefore dismiss the claim for the costs of tracing the Tenant.

Section 39 of the Act provides that, despite any other provision of this Act, if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy,

> (a) the landlord may keep the security deposit or the pet damage deposit, or both, and
>
> (b) the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.

Although the Landlord has not claimed retention of the security deposit, as the Tenant has not provided its forwarding address to the Landlord to claim return of the security deposit and as more than a year has passed from the end of the tenancy, I find that the Landlord may retain the security deposit. As none of the Landlord's claims in the application have had merit I decline to award recovery of the filing fee and in effect the application is dismissed in its entirety.

Conclusion

The application is dismissed.

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, 2017

Residential Tenancy Branch