



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

In the first application the landlord seeks damages for the repair of a hardwood floor and for carpet cleaning. By an amendment to that claim he also seeks to recover a move-in fee and the cost of lightbulbs.

In the second application the tenants seek to recover the \$1100.00 remainder of their security deposit, doubled pursuant to s. 38 of the *Residential Tenancy Act* (the “Act”).

The listed parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Does the relevant evidence presented during the hearing show that the tenants are responsible for any of the landlord’s claims? Are the tenants entitled to a doubling of the deposit money?

Background and Evidence

The rental unit is a two bedroom “plus den” condominium apartment. The tenancy started in mid-August 2014. The monthly rent was \$2200.00. At the start of the tenancy the tenants paid an \$1100.00 security deposit and an \$1100.00 pet damage deposit.

The tenants vacated the premises on January 17, 2017 when they returned the key to the landlord.

Ms. J.A. for the landlord and the tenant Ms. Y.K. walked through the premises. All seemed fine with the state of the premises at that time.

A day or two later the landlord Mr. K.G. came by the premises and noticed what he considered to be damage to the flooring. He also noticed some remaining dog hair at the corners of the carpet. He asked the tenants to come inspect again but that did not occur. He determined the cost of floor repair and cleaning and contacted the tenants about the cost but with no response.

The tenants provided the landlord with a forwarding address in writing on January 30. Concurrently, the landlord returned only \$1100.00 of the deposit money, keeping \$1100.00 to pay for the floor repair and cleaning.

The landlord made his application for a monetary claim against the deposit money on February 15, 2017. He did not serve the tenants with that application until July.

In the meantime the tenants brought their application in March and learned of the existence of the landlord's claim.

The tenants say the floor damage is wear for a desk chair; reasonable wear and tear. Mr. K. says he polished the area from time to time. They say they steam cleaned the carpets before leaving using their own machine. The landlord claims \$59.67 for replacing lightbulbs. Mr. K. testifies that only a small halogen bulb was not working.

Analysis

The landlord has put himself in a very difficult position by not attending to the statutorily required move-in inspection and report and by not having a formal move-out report. Those reports are required for the specific purpose of generating consensus between landlords and tenants about the state of the premises at the start and end of the tenancy.

Floor Damage

Having considered the testimony and the landlord's photos of the floor, the damage appears to be a circular wearing pattern consistent with the use of a desk chair on rollers wheels. Without a move-in report to contradict him, I accept Mr. K.'s evidence that there was some similar wear in the same spot at move-in. I consider the wear marks to wear and tear consistent with normal living habits. As such it is not a claimable loss and I dismiss this item of the claim.

Dog Hair

Under the *Act* it is a tenant's responsibility to leave premises "reasonably clean." Understandably there can be considerable disagreement between a landlord and a tenant over what "reasonably clean" means.

In this case, while the tenants may have missed cleaning up some dog hair, it was not a matter that drew the attention of either Ms. N.A. or Ms. Y.K. when they walked through the rental unit together. I find that the premises were reasonably clean when the tenants vacated and I dismiss this item of the landlord's claim.

Lightbulbs

On the contradicting evidence and in the absence of a completed move-out inspection report done at the time of the walk through, I grant the landlord recovery of the cost of a halogen bulb, admitted to by the tenants. I assess the cost of the bulb to be \$10.00.

Other

The landlord's monetary order worksheet discloses a claim for a \$200.00 "move-in fee." I heard no evidence in support of that claim and so it is dismissed.

The Tenants' Doubling Claim

Section 38 of the *Act* provides that once a tenancy has ended and once a tenant has provided the landlord with a forwarding address in writing, a landlord must, within fifteen days, either repay the deposit money or make an application to keep it.

In this case the tenancy ended on January 17. The tenants' forwarding address was provided on January 30. The landlord's application was made on February 15.

It would appear that the landlord has complied with s. 38 and the fifteen day period. Section 38 requires only that the landlord "make" the application within that period, not serve it on his tenants.

I find that the landlord has complied with s. 38 and that the tenants are not entitled to a doubling of the deposit money.

Section 59(3) of the *Act*

At the hearing the parties were informed of s. 59(3) of the *Act*, which provides:

(3) Except for an application referred to in subsection (6), a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.

Subsection (6) concerns rooms in residential hotels and does not apply here. The director has not authorized the landlord to serve his application within a different period.

The tenants expressed the wish to have this matter adjudicated fully at this hearing, given that the landlord could make a re-application if thwarted by ss (3) on this application.

Conclusion

The landlord is entitled to an award in the amount of \$10.00. In light of his minimal success I decline to grant the landlord recovery of the filing fee.

The tenants are entitled to recover the remaining \$1090.00 of their deposit money. I award them recovery of the \$100.00 filing fee for their application. They will have a monetary order against the landlord in the amount of \$1190.00.

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 25, 2017

Residential Tenancy Branch