



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDL, MNDCL, FFL

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for damage to the rental unit; and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on June 15, 2019 the Dispute Resolution Package and the evidence the Landlord submitted to the Residential Tenancy Branch in June of 2019 were sent to the Tenant, via registered mail, at the service address noted on the Application. The Tenant acknowledged receipt of these documents and the evidence was accepted as evidence for these proceedings.

On September 10, 2019 the Landlord submitted additional evidence to the Residential Tenancy Branch. The Landlord stated that this evidence was served to the Tenant with the documents that were served to her on June 15, 2019. The Tenant acknowledged receipt of these documents and the evidence was accepted as evidence for these proceedings.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each party affirmed that they would provide the truth, the whole truth, and nothing but the truth at these proceedings.

All documentary evidence accepted as evidence for these proceedings has been reviewed, although it is only referenced in this decision if it is directly relevant to my decision.

Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit?

Background and Evidence

The Landlord and the Tenant agree that the tenancy began in March of 2017.

The Tenant stated that she moved out of the rental unit, without notice, on June 05, 2017 or June 06, 2017. She stated that on June 07, 2017 she removed all of her personal items from the unit.

The Landlord stated that on June 07, 2017 her caretaker went to the rental unit and observed items being moved out of the rental unit. She stated that the Tenant did not give notice of her intent to end the tenancy.

The Landlord filed this Application for Dispute Resolution on June 06, 2019.

The Landlord is seeking compensation, in the amount of \$231.00, for cleaning the carpet in two bedrooms in the rental unit. The Landlord stated that the carpets needed to be cleaned because there was a strong odor of cat spray in those two rooms. The Tenant stated that there was no cat odor in the unit at the end of the tenancy.

The Landlord stated that both her caretaker and the new tenancy told her there was a strong smell, although she submitted no evidence from either of these parties.

The Landlord stated that she hoped the smell would dissipate, but when it did not she decided to replace the carpet in the two bedrooms. The Landlord submitted an invoice to show that the carpet was replaced in March of 2018.

The Landlord is seeking compensation, in the amount of \$80.00, for replacing a remote garage door opener. The Landlord and the Tenant agree that the opener was not returned at the end of the tenancy. The Landlord did not submit a receipt to show that it cost \$80.00 to replace the door opener.

The Landlord is seeking compensation, in the amount of \$225.00, for utility charges incurred from March of 2017 to June of 2017. The Landlord and the Tenant agree that the Tenant was required to pay for water and garbage fees incurred during the tenancy.

The Tenant stated that she was never presented with a utility bill but that she would have paid the bill if one had been presented to her.

In support of the application for utility charges the Landlord submitted a document which appears to be a computer printout from a utility company. The printout appears to be for a billing period of February 01, 2017. The Landlord contends that this printout establishes that the Tenant owes \$200.00 for utilities between March 01, 2017 and June 06, 2017, which she basis on the reference to a “pending” charge of \$200.00.

The Landlord is seeking compensation, in the amount of \$300.00, for mowing and cleaning the yard. The Landlord and the Tenant agree that the Tenant was required to mow the lawn during the tenancy.

The Tenant stated that she mowed the lawn in early June of 2017, prior to vacating the rental unit. The Landlord stated that she paid a third party \$200.00 in the middle of June to mow the lawn and clean the yard of grass clippings.

Analysis

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

I find that the Landlord has submitted insufficient evidence to establish that there was a cat odor on the carpets at the end of this tenancy. In reaching this conclusion I was heavily influenced by the absence of evidence, such as a statement from an independent third party, which corroborates the Landlord’s testimony that there was an odor or that refutes the Tenant’s testimony that there was not an odor.

As the Landlord has failed to establish that there was a cat odor on the carpets at the end of the tenancy, I find that she has failed to establish that the rental unit was not left in reasonably clean condition, as is required by section 37(2) of the *Act*. As the Landlord has failed to establish that the carpets were not left in reasonably clean condition, I dismiss her claim for cleaning the carpet and for replacing the carpet.

On the basis of the undisputed evidence I find that Tenant failed to comply with section 37(2) of the *Act* when she did not return the garage door opener. In addition to establishing that a tenant damaged a rental unit, a landlord must also accurately establish the cost of repairing the damage caused by a tenant, whenever compensation for damages is being claimed. I find that the Landlord failed to establish the true cost of replacing the garage door opener. In reaching this conclusion I was strongly influenced by the absence of any documentary evidence that corroborates the Landlord's testimony that it cost \$80.00 to replace the opener. When receipts are available, or should be available with reasonable diligence, I find that a party seeking compensation for those expenses has a duty to present the receipts. I therefore dismiss the Landlord's claim to recover the cost of replacing the opener.

On the basis of the undisputed evidence I find that the Tenant was obligated to pay for water and garbage costs incurred during this tenancy. I find that the Landlord has failed to submit a bill from the utility company which clearly establishes these costs. I find that the computer printout from the utility company does not clearly establish the cost of these utilities for the period between March 01, 2017 and June 06, 2017. I do not accept the Landlord's submission that the "pending" charge of \$200.00 that is referenced on the computer printout establishes the amount that was due. I find that the Tenant is entitled to receive clear evidence of the amount due before she is obligated to reimburse the Landlord for utility charges. As the Landlord has failed to establish the amount due, I dismiss her claim to recover the cost of utilities.

On the basis of the undisputed testimony I find that the Tenant abandoned the rental unit on June 07, 2017, without providing the Landlord with notice of her intent to end the tenancy. I therefore find that this tenancy ended on June 07, 2017, pursuant to section 45(1)(d) of the *Act*.

On the basis of the undisputed evidence I find that the Tenant was required to mow the lawn during the tenancy. On the basis of the testimony of the Tenant and in the absence of any evidence to the contrary, I find that the Tenant mowed the lawn in early June of 2017. By mowing the lawn in early June of 2017 I find that she complied with her obligation to mow the lawn during the last week of her tenancy.

On the basis of the testimony of the Landlord and in the absence of any evidence to the contrary, I find that the Landlord had the lawn mowed sometime in the middle of June of 2017, which is approximately one week after the Tenant vacated the unit. As the tenancy ended on June 07, 2017, I find that the Tenant was no longer obligated to maintain the lawn after June 07, 2017. As the Tenant was not obligated to mow the

lawn after June 07, 2017, I dismiss the Landlord's claim for mowing the lawn in the middle of June of 2017.

I find that the Landlord has failed to establish the merit of her Application for Dispute Resolution and I therefore dismiss her application to recover the fee for filing this Application for Dispute Resolution.

Conclusion

I dismiss the Landlord's application for a monetary Order, as she has failed to establish the merit of her claims.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: September 20, 2019

Residential Tenancy Branch