



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MND, MNDC, FF*

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order to recover the cost of repairs, cleaning and the filing fee. Both parties attended this hearing and were given full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The parties were represented by their agents.

As both parties were in attendance, I confirmed service of documents. The parties confirmed receipt of the other's evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

Issues to be decided

Is the landlord entitled to a monetary order to recover cost of repairs, cleaning and the filing fee?

Background and Evidence

Right from the start of the hearing the parties could not agree on several aspects of the tenancy which included start of tenancy and payment of utilities. The start of tenancy according to the landlord's agent was December 2016 while the tenant's agent stated that the tenant moved into the rental unit in January 2018. The parties agreed that the tenancy ended on July 31, 2018 after the parties entered into a mutual end to tenancy agreement. The monthly rent was \$400.00. The parties offered contradictory testimony regarding the payment of utilities.

The rental unit consists of a suite located on the upper level of the rental home. The owner lived on the lower level. The two suites were separated by a locked door. The landlord stated that the tenant moved out leaving the unit in a dirty condition and filed two photographs to support her testimony. One photograph shows a part of the

floor with some dirt on it. The landlord stated that there was dirt all over the house. The other photograph was of a garbage bag left on the patio and leaking some liquid. The landlord is claiming \$252.00 for cleaning and has filed a receipt for this amount.

The tenant testified that she cleaned the unit prior to moving out. She stated that she moved out on a Wednesday and garbage collection was on Friday. The tenant added that it was her practice to stow garbage bags on the patio until garbage collection day. The tenant stated that she was not allowed to return to the rental unit to do so.

The landlord is also claiming the cost to repair a door that she states was broken by the tenant. During her testimony the landlord stated that the tenant's father broke open the door that separates the suites. The landlord also added that the tenant has keys to every door in the house. The tenant stated that the owner who occupied the lower level suite, had locked herself out and requested the tenant to ask her father to break open the door. The tenant stated that the owner did not want to hire a locksmith.

The landlord agreed that the owner may have locked herself outside her suite but maintained that the tenant was responsible for the cost of replacing the door and has filed a copy of a handwritten receipt dated July 26, 2018. The landlord also filed a photograph of the door with the door knob removed.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

The landlord filed one photograph of a portion of the floor which showed some dirt. The tenant stated this could have come from the movers. Since the invoice is dated August 11, 2018, it is possible that the dirt came from the shoes of people who visited during the 11 days after the tenancy ended.

One of the visitors was the locksmith hired by the landlord to change locks on the day the tenant moved out and could possibly have left behind some dirt as he carried out his

work. The tenant stated that she was locked out after July 31, 2018 and therefore was unable to place the garbage bag on the curb for collection.

In this case, I find that the landlord has not filed sufficient evidence to show that the rental unit was left in a dirty condition, which required a "deep clean". The landlord's claim for \$252.00 is dismissed.

The landlord maintained that the tenant's father broke open the door at the tenant's request. The tenant stated that the owner locked herself out and requested the tenant to call her father to break the lock as the owner did not want to hire a locksmith. The landlord stated that the tenant had keys to all the doors in the house and therefore I find on a balance of probabilities that the tenant would have no reason to break open a locked door unless requested to do so by the owner of the property. The receipt for the purchase of the door is handwritten and lacks the elements of a proper receipt.

I find that the landlord has not proven that the tenant is responsible for the cost of replacing the door and therefore the landlord's claim is dismissed.

The landlord has not proven her claim and therefore must bear the cost of filing this application.

Conclusion

The landlord's application is dismissed in its entirety.

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 22, 2019

Residential Tenancy Branch