



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MND, MNR, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order for loss of income, damages and for the filing fee.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant represented herself and was accompanied by her advocate. The landlord represented herself and was accompanied by her agent.

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

I have considered all the written evidence and oral testimony provided by the parties but have not necessarily alluded to all the evidence and testimony in this decision.

Issues to be decided

Is the landlord entitled to a monetary order for loss of income, damages and the filing fee?

Background and Evidence

The background facts are generally undisputed. The tenancy started on May 01, 2019 and ended on July 31, 2019. The monthly rent was \$1,500.00 due on the first of each month. The landlord is currently holding pet and security deposits in the total amount of \$1,500.00.

The landlord testified that she purchased the three-bedroom rental unit approximately 20 years ago and lived in it for 15 years. The landlord stated that the carpet in one of the bedrooms was 10 years old and the other two bedrooms had carpets that were 3 years old.

The landlord testified that the tenant had two male cats as pets and at the end of tenancy the carpets were heavily stained and had a strong odour of cat urine. The landlord filed photographs to support her testimony. The landlord stated that the carpets had to be removed and the odour had permeated the sub floor which also had to be replaced. The landlord is claiming \$4,000.00 to replace the flooring and has filed proof of the cost of materials and labour. The landlord replaced the carpet with laminate

The tenant stated that there were rats in the house and filed a copy of an inspection by the pest control company done on July 30, 2019 which confirms that there is a rat infestation under the house and in the furnace system. The tenant stated that the urine odour was from the rats.

The landlord also filed a copy of an inspection done on August 07, 2019 which states that no rat droppings were found on the main floor and that the rat activity was under the house.

The landlord added that the tenant informed her of the rat problem on July 22, 2019 and she acted on it immediately. The pest control company attended on July 24, 2019.

On July 30, 2019, the tenant informed the landlord that she was moving out the next day on July 31, 2019. The landlord stated that she started remediation work to have the unit ready for the next tenant. The work took three months and the landlord found a tenant for November 01, 2019. The landlord is claiming \$4,500.00 for the income lost.

Analysis

Section 40 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. I will use this guideline to assess the remainder of the useful life of the carpet.

As per this policy, the useful life of carpet is 10 years. The landlord stated that one of the bedrooms had a 10-year-old carpet and therefore by the end of tenancy the carpet in that room had outlived its useful life and would have to be replaced at the landlord's cost. However the other two bedrooms had carpets that were 3 years old and therefore at the end of tenancy, these carpets had 7 years of useful life left.

The landlord is claiming \$4,000.00 for replacing the carpet in all three bedrooms. Since I have determined that the landlord is entitled to the prorated cost to replace carpet in only two bedrooms, I find that the landlord is entitled to \$1,866.00 which is the approximate value of the useful life left of the carpet in the two bedrooms, at the end of tenancy.

By providing notice on July 30, 2019, the earliest the tenant could have legally ended the tenancy was August 31, 2019. The landlord was unable to rent the unit due to the ongoing remediation work. The landlord found a tenant for November 01, 2019 and is claiming the loss of income that she suffered for the three months that the unit remained vacant.

Residential Tenancy Policy Guideline #3 states that the damages awarded are an amount sufficient to put the landlord in the same position as if the tenant had not breached the agreement.

As a general rule, this includes compensating the landlord for any loss of rent up to the earliest time that the tenant could legally have ended the tenancy. Since the tenant provided one day's notice to end the tenancy on July 31, 2019, I find that the landlord is entitled to the income that she lost for the month of August in the amount of \$1,500.00.

Even where a tenancy has been ended by proper notice, if the premises are un-rentable due to damage caused by the tenant, the landlord is entitled to claim damages for loss of rent. The landlord is required to mitigate the loss by completing the repairs in a timely manner.

In this case the tenant did not provide adequate notice to end the tenancy and upon moving out, the premises were un-rentable due to the pet damage. The landlord was forced to change the flooring to rid the rental unit of the pet urine odour.

However, in order to claim damages, the landlord is required to mitigate the loss by completing the repairs in a timely manner. The landlord had all of August 2019 to replace flooring but is claiming a loss for an additional two period. I find the landlord's claim to be unreasonable and therefore it is dismissed.

Since the landlord has proven a portion of her claim, I find that she is entitled to the recovery of the filing fee of \$100.00. Overall the landlord has established a claim of \$1,866.00 for the cost of replacing the carpet, \$1,500.00 for loss of income plus \$100.00 for the filing fee for a total of \$3,466.00.

I order that the landlord retain the security and pet deposits of \$1,500.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance of \$1,966.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order in the amount of **\$1,966.00**. The landlord may retain the security deposit of \$1,500.00.

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: December 10, 2019

Residential Tenancy Branch