Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MURRAY HILL DEVELOPMENTS
and [tenant name suppressed to protect privacy]

DECISION

<u>Dispute Codes</u>   MND, MNSD, FF

<u>Introduction</u>

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the "Act"), for a monetary order for money owed and cleaning required to the rental unit, for an order to retain the security deposit in full satisfaction of the claim and to recover the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

<u>Issues to be Decided</u>

Is the landlord entitled to a monetary order for money owed?
Is the landlord entitled to monetary compensation for cleaning costs?
Is the landlord entitled to retain the security deposit in full satisfaction of the claim?

<u>Background and Evidence</u>

The parties agreed that they entered into a fixed term tenancy which began on June 1, 2018 and was to expire on May 31, 2019. The parties entered in to a second fixed term agreement on June 1, 2019 and was to expire on May 31, 2020. Rent in the amount of

$1,470.00 was payable on the first of each month. The tenant paid a security deposit of $735.00. The tenancy ended on August 28, 2019.

The parties agreed a move-in and move-out condition inspection report was completed.

The landlord claims as follows:

a.	Liquidated damages	$200.00
b.	Carpet cleaning	$105.00
c.	Filing fee	$100.00
	Total claimed	**$405.00**

The landlord's agent testified that they seek to recover the cost of liquidated damages clause #21, listed in the tenancy agreement for the administrative cost of re-renting the unit as the tenant did not fulfill their obligations under the fixed term tenancy agreement.

The landlord's agent testified that the tenant did not have the carpets cleaned at the end of the tenancy. The landlord stated that the tenant would only agree to $80.00 in the move-out inspection; however, the actual cost was $105.00.

The tenant testified that the original fixed term agreement stated that the agreement would revert to a month to month. The tenant stated that the landlord sent them a new lease at the end of the original fixed term agreement for another fixed term. The tenant stated they did sign the agreement.

The tenant testified that they did not have the carpets cleaned at the end of the tenancy.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

In this case, the tenant signed a new fixed term agreement commencing June 1, 2019 and was to expire May 31, 2020. If the tenant wanted the tenancy to continue on a month to month basis, they should have not entered into the new fixed term agreement.

I find the tenant did sign the fixed term agreement and vacated prior to the expiry of that agreement. I find the tenant breached the tenancy agreement and the landlord is entitled to recover liquidated damages, which is the administrative cost of re-renting the rental premises. Therefore, I find the landlord is entitled to recover the amount specified in the tenancy agreement in the amount of $200.00.

Under the Residential Tenancy Policy Guideline 1, which clarifies the rights and responsibilities of the parties for the premises under the Act, the tenant is generally expected to clean the carpets if vacating after a tenancy of one year.

In this case, the tenancy exceeded one year. The evidence of the tenant was they did not clean the carpets at the end of the tenancy. I find the tenant has breached section 37(2) of the Act, when they failed to clean the carpets, and this caused losses to the landlord. Therefore, I find the landlord is entitled to compensation for the cost of having the carpets cleaned in the amount of **$105.00.**

I find that the landlord has established a total monetary claim of **$405.00** comprised of the above described amounts and the $100.00 fee paid for this application.

I order that the landlord retain the amount of **$405.00** from the security deposit of **$735.00** in full satisfaction of the claim. I grant the tenant an order under section 67 of the Act for the balance due of their security deposit in the amount of **$330.00.**

Should the landlord fail to return the above amount to the tenant. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **landlord is cautioned** that costs of such enforcement are recoverable from the landlord.

Conclusion

The landlord is granted a monetary order and may keep a portion of the security deposit in full satisfaction of the claim. The tenant is granted a formal order for the balance due of their security deposit.

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: January 06, 2020

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Residential Tenancy Branch