



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND, MNSD, FF

Introduction

This matter dealt with an application by the landlord for a Monetary Order for damages to the rental unit and to recover the filing fee for this proceeding. The landlord also applied to keep all or part of the security deposit.

Service of the hearing documents was done in accordance with section 89 of the *Act*. They were sent to the tenant by registered mail on July 17, 2009. The tenant confirmed she had received them.

Both parties appeared, gave their testimony, were provided the opportunity to present evidence, make submissions and to cross-examine the other party. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

- Is the landlord entitled to a Monetary Order to cover the additional costs for repair to damages and cleaning of the rental unit?
- Are the landlords entitled to keep all or part of the security deposit and interest?
- Did the landlord complete a move in and move out condition inspection report?
- Is the landlord entitled to recover filing fees from the tenant for the cost of the application?

Background and Evidence

This tenancy started on October 01, 2007 and ended on June 30, 2009. At the outset of the tenancy the tenant paid \$700.00 in rent which increased by mutual agreement to \$750.00 when her boyfriend moved in. The tenant paid a security deposit of \$350.00 and a pet damage



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deposit of \$100.00 on September 26, 2007. The tenant provided the landlord with a forwarding address on July 07, 2009.

The landlord testifies that she left the tenant a message to contact her about the move out condition inspection and when the tenant called her one evening the landlord spoke to the tenant about some of the damages and the tenant hung up on her stating “She does not have time for this”. The landlord has provided a record of condition inspection opportunities with the times and dates she attempted to organise the move out condition inspection. The first date given was June 29 at 5.00pm and the second date provided and placed in the tenants mail box was for July 01 at 3.00pm.

The tenant claims she did not receive the second date as she had moved from the rental suite by this time. The landlord completed the inspection without the tenant but could not provide a copy of this to the tenant as she had not received her forwarding address at that time. The tenant gave the landlord her forwarding address on July 07, 2009.

The condition inspection highlights areas that required additional cleaning and repair of damages. The landlords claim includes the labour for cleaning of the rental unit at a cost of \$200.00. Time spent re-decorating in the hallway and paint touch ups, hanging curtains and buying curtains, accordion doors and security chain at a cost of \$87.50. Additional repairs to the screen, replacing accordion doors, repair of door jam, replacement of closet doors and sliders, fill holes in walls, repair bedroom door, straighten curtain rod, install new security chain, repair handle on screen door, repair casing on front door, remove wall plugs and nails, remove motor oil in outdoor storage area to the cost of \$25.00. The landlord is also claiming costs for the purchase of oven cleaner \$4.32, door security chain \$7.80, four curtains which the tenant shrunk at \$78.31 and an accordion door at a cost of \$59.20 and the cost of carpet cleaning of \$78.75.

The tenant testifies that she cleaned the carpets but they did not come up very clean so she agrees to the carpet cleaning cost. She states that she forgot to clean the oven and agrees to this cost. The tenant agrees that some other additional cleaning was required such as window

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cleaning. She agrees that the bedroom door was damaged by her boyfriend and the oil in the storage area was also left by him. She also admits that she did shrink the curtains. The tenant disputes the rest of the landlords claim. She testifies that when the water tank leaked it created damp in the rental unit and made the front door swell up so she had to get neighbours to force the door open which may have caused the damage to the door. A small split in the accordion door was caused when she moved a futon bed but does not know how the larger split happened. She testifies that the damage to the screen door is caused by the door handle rubbing. She claims the closet doors fell off and she did not know how to replace them and the damage to the bathroom door was caused when the striker plate fell out. The curtain rod bent when it fell off and she could not reach to put it back in place.. The tenant states that the landlord gave her permission to use nails to hang pictures.

Analysis

The burden of proof is on a claimant when they make a claim against the other party for damage or loss. In this instance the landlord has provided sufficient evidence to prove the existence of the damage and that it was a result of the tenants' actions or neglect. I prefer the evidence of the landlord as to the damage and cleaning that was required to be completed at the end of the tenancy. This is also supported by the move out condition inspection report, photographic evidence and receipts supplied.

I also find that the landlord made every attempt to arrange for the tenant to take part in the move out condition inspection and she failed to do so. If the tenant had provided the landlord with her forwarding address at the time she moved out she would have received the second date to attend the inspection. The landlord contacted the tenant by telephone and left a message about the inspection which the tenant responded to but due to a confrontation when the tenant hung up on the landlord no date was set for her to attend the inspection. Therefore I find pursuant to s. 35(2) of the Act that the landlord was diligent in attempting to provide two opportunities for the tenant to attend this inspection. Pursuant to s.38(4)(b) I find that the landlord may retain the tenants security deposit in partial payment towards the cleaning and damages of the rental unit.



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As the landlord has been successful with her application she is also entitled to recover her filing fee of \$50.00. I uphold the landlords' application and find she is entitled to a Monetary Order for the following amount:

Cleaning and damages	\$540.88
Less security, pet damage deposit and accrued interest	(-458.57)
Total amount due to the landlord	\$132.31

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$132.31**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

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: September 03, 2009.

Dispute Resolution Officer