

DECISION

Dispute Codes MND, MNSD, FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, seeking monetary orders for alleged damage to the rental unit, to keep all or part of the security deposit, and to recover the filing fee for the Application.

Issues(s) to be Decided

Is the Landlord entitled to the monetary relief sought?

Background and Evidence

The parties entered into a written tenancy agreement on November 3, 2009, for a tenancy to begin on December 1, 2003. The Landlord received a security deposit of \$320.00 on November 3, 2003, and the monthly rent was set at \$635.00.

At the outset of the tenancy, the Landlord did not complete a condition inspection report in accordance with the Act or regulations. The rental unit had suffered water damage from a burst pipe in the unit upstairs just days prior to the Tenant moving in.

In about February of 2004, the Landlord had the Tenant do a hand written "Damage Report", however, the Landlord was not present when this was completed.

The tenancy ended on July 1, 2009, as a result of the Landlord issuing the Tenant a two month Notice to End Tenancy for the Landlord's use of the rental unit.

The Landlord did not complete an outgoing condition inspection report in accordance with the regulations or the Act.

The Landlord now claims for alleged damages and cleaning at the rental unit, following the Tenant moving out.

Analysis

Under the Act and regulations, the Landlord was required to complete incoming and outgoing condition inspection reports. The Act and regulations set out that the Landlord's right to claim against the security deposit is extinguished if the Landlord does not comply with these requirements.

Based on the foregoing, the evidence and testimony, and on a balance of probabilities, I find that the Landlord's right to claim against the security deposit has been extinguished

as there is insufficient evidence to prove the conditions in the rental unit at the time the tenancy started and then ended, and therefore, I dismiss the Landlord's claims.

The Landlord must return the security deposit and interest in the amount of **\$331.33** to the Tenant, and I have granted and issued the Tenant a monetary order to this effect.

Lastly, I note the Landlord left the hearing prior to its conclusion.

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 21, 2009.

Dispute Resolution Officer