



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD MND FF

Introduction

This hearing dealt with applications by the tenant and the landlord. The tenant applied for double return of her security deposit. The landlord applied for monetary compensation. The tenant, the landlord and three witnesses for the landlord participated in the teleconference hearing.

Issue(s) to be Decided

Is the tenant entitled to double recovery of the security deposit?
Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on July 1, 2010. On June 13, 2010, the landlord received a security deposit from the tenant in the amount of \$650. There was no move-in inspection carried out at the outset of the tenancy.

Within the first month of the tenancy, the tenant informed the landlord that there was some damage to the laminate flooring in the rental unit. Some dark stains had begun to appear on the flooring.

On September 15, 2010, the landlord, at the request of the tenant, had a carpenter inspect the damaged flooring. The carpenter testified in the hearing that he believed the water damage must have been caused by water coming from on top of the laminate, possibly by water coming in through an open window from the sprinkler. When the carpenter cut out and removed some of the damaged flooring, and removed the insulation, the concrete below was "bone-dry." There was no mildew, mould or water stains on the concrete. The landlord submitted photographs of the damaged flooring which showed large dark stains. However, the surface of the flooring appeared smooth, without any noticeable warping or bubbling.

On November 13, 2010 the tenant had an assessment done by a flooring contractor, whose written opinion was that the damage was caused by water entering the house from the exterior. The contractor's observations included pooling of water along the outside of the wall where the water damage was occurring, as well as lack of significant cupping of the surface, which is usually present if the water comes from above the floor.

The landlord's position was that the tenant was responsible for the water damage. The landlord has claimed \$2057.24 for the cost of repairing the flooring, as well as recovery of her filing fee. The tenant's response was that she was not responsible for the water damage.

On October 30, 2010 the tenant gave the landlord written notice of her intention to vacate the rental unit as of November 30, 2010. The landlord and tenant met on November 28, 2010 to do a move-out inspection. The tenant refused to sign the move-out inspection report. The tenant vacated and provided her written forwarding address on November 28, 2010. The landlord's evidence was that she returned the tenant's security deposit via registered mail on December 10, 2010. The landlord provided a copy of a letter and her cheque, both dated December 10, 2010. The tenant's evidence was that she had not received her security deposit by December 17, 2010. The tenant has applied for double recovery of her security deposit.

Analysis

In regard to the landlord's application, I find that the landlord has not provided sufficient evidence to establish the cause of the water damage, only speculation as to the possible cause of the damage. The tenant denied having caused the damage. The landlord's photographs did not show surface damage to the flooring, aside from the stains. I do not find it likely, based on the landlord's evidence, that the tenant damaged the flooring. The landlord has the burden of proof to establish on a balance of probabilities that the tenant caused the damage, and I find that the landlord has not met that burden in this case. The landlord's application is therefore dismissed.

In regard to the tenant's claim, I am satisfied that the landlord complied with the Act by taking steps to return the tenant's security deposit within the required time frame. The tenant is therefore not entitled to double recovery of her security deposit. The tenant's application is also dismissed.

Conclusion

The landlord's application is dismissed. The landlord is not entitled to recovery of her filing fee for the cost of her application.

The tenant's application is dismissed.

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: June 22, 2011.

Residential Tenancy Branch