



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking to retain the security deposit.

The hearing was conducted via teleconference and was attended by the landlord only.

The landlord testified she served the tenant with the notice of hearing documents and her Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on March 9, 2012 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenant on the 5th day after it was mailed.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

At the outset of the hearing the landlord testified that she only seeks to retain the security deposit in total for all matters related to this claim including the filing fee.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to retain all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted a copy of a tenancy agreement with two tenants listed and signed by the parties on February 28, 2007 for a month to month tenancy agreement beginning on March 1, 2007 for the monthly rent of \$800.00 due on the 31st of each month with a security deposit of \$400.00 paid on February 28, 2007.

The landlord provided a copy of a second tenancy agreement signed by the parties on August 13, 2007 for a new tenancy agreement that listed only one of the previously named tenants and a notation that \$200.00 of the security deposit was paid on February 28, 2007 and \$200.00 was paid on August 13, 2007. The tenancy agreement contained a clause that required the tenant, at the end of the tenancy, to fill the oil tank to the same level it had been at the start of the tenancy

The landlord confirmed the tenancy ended at the end of February 2012 and has provided documentary and photographic evidence of the condition of the rental unit at the end of the tenancy, including email communication from the tenant confirming the oil tank was empty.

The landlord submitted into evidence estimates for carpet cleaning (\$265.88); house cleaning (\$160.00) and a receipt for oil purchased (\$166.87). The landlord also provided a copy of a receipt for oil from the start of the tenancy for the same amount of oil as purchase by the landlord at the end to the tenancy.

While the landlord did provide receipts for the actual costs of the carpet cleaning she testified the carpet cleaning was actually less than the estimate in the amount of \$168.56 and the cost of house cleaning was actually \$360.00.

Analysis

Section 37 of the *Act* requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all keys or other means of access that are in the possession and control of the tenant and that allow access to and within the residential property.

From the landlord's documentary evidence and her undisputed testimony I accept the condition of the rental unit was as described in the move out inspection and as a result the landlord incurred cleaning and carpet cleaning costs. In addition, I accept the requirement to leave the oil tank at the same level at the end of the tenancy as it was at the start of the tenancy is a term of tenancy and as such the landlord is entitled to compensation from the tenant as she had not replenished the oil as required.

The landlord's original estimates of her costs the total is \$592.75. I accept the full amount of \$166.87 for oil replacement has been established. I also accept from the landlord's testimony that the carpet cleaning was less than her estimate in the amount of \$168.56.

Despite the landlord's testimony that the house cleaning actual costs were \$200.00 greater than the original estimate, the landlord has failed to provide evidence to establish this difference as such I accept the original estimate of \$160.00 as the cost for house cleaning for a total of \$495.43 in total costs to her resulting from the condition of the rental unit at the end of this tenancy.

Conclusion

Based on the above, I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$545.43** comprised of \$495.43 for cleaning, carpet cleaning and fuel plus the \$50.00 fee paid by the landlord for this application.

I order the landlord may retain the security deposit and interest held in the amount of \$409.73 in satisfaction of this claim, as per the landlord's request to only retain the 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: May 11, 2012.

Residential Tenancy Branch