



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MND MNDC MNR MNSD

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The landlord has also requested recovery of the \$50.00 filing fee from the tenant. Both parties attended the hearing And had an opportunity to be heard.

Issues

Is the landlord entitled to the requested orders?

Background and Evidence

This tenancy began on June 1, 2009. The rent was \$900.00 per month. A security deposit of \$450.00 was paid at the start of the tenancy. A condition inspection report was completed upon move-in and move-out. The tenant did not participate in the move-out inspection despite having received two notices of final inspection. On January 12, 2012, the tenant gave the landlord written notice that she would be vacating the rental unit on February 29, 2012 but ended up vacating on January 31st instead.

The landlord claims that in addition to not giving proper notice to end the tenancy effective January 31, 2012, the tenant failed to properly clean the unit upon move-out and did damage to the unit that went beyond normal wear and tear. The landlord submitted condition inspection reports, receipts, photos and invoices in support of the claim.

The tenant acknowledged that she did not leave the unit in perfect condition but stated that she believed most of it constituted normal wear and tear. The tenant specifically disputed the landlord's claim for some missing closet doors claiming that the landlord's husband took them out of the unit because they were blocking access to the hot water tank. The tenant also specifically disputed the amount being claimed by the landlord for drywall repairs. The tenant acknowledged that she had used screws and plugs to affix items to the walls but denied the damage was as extensive as that claimed by the

landlord. The tenant also stated that she thought the inspection was supposed to be on February 9th rather than February 6th.

Analysis

The landlord has made a monetary claim against the tenant comprised of the following:

Unpaid rent for February	\$900.00
Cleaning	\$360.00
Carpet cleaning	\$140.00
Window cover replacement	\$245.00
Bathtub repair	\$50.00
Missing closet doors	\$188.12
Painting of closet doors	\$120.00
Full paint of unit due to damage	\$1,150.00
Key replacements	\$52.50
Drywall damage	\$700.00
Cost of Paint	\$332.50
Photo development	\$29.20
TOTAL	\$4,267.32

Most of the landlord's claim is based on Section 37 of the Act which requires that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear. The landlord's claim for unpaid rent is based on the tenant's failure to give proper notice for a January 31 departure date.

As a general principle, when making a claim of this nature, the party making the claim bears the burden of proof on a balance of probabilities both as to liability and quantum. In other words, the claimant must first prove that the respondent is liable for the damage

and then, having proved that, must then prove the cost of repairing the damage. Normally, this is done by submitting documents such as receipts, estimates and invoices.

Based on the information before me, I am satisfied that the landlord has proved the entire claim except for those relating to the missing closet doors and the photo development. With respect to the closet doors, it was not clear to me exactly what happened to them given the testimony of both parties on this point. As for the cost of developing the photos, I am not authorized to make an award for any costs of bringing a claim other than the filing fee.

Conclusion

I find that the landlord has established a total monetary claim of \$4,050.00 and is entitled to recover from the tenant the \$50.00 fee paid for this application. I therefore order that the landlord retain the deposit and interest (\$0.00) of \$450.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3,650.00. This order may be filed in the Small Claims Court and enforced 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*.