



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR MNSD FF

Introduction

This hearing dealt with applications by the tenant and the landlord. The tenant applied for double recovery of the security deposit. The landlord applied for a monetary order and an order to retain the security deposit in partial compensation of the monetary claim. The landlord and the tenant participated in the teleconference hearing on both dates.

The hearing first convened on February 28, 2013. On that date, the tenant requested an adjournment to submit evidence in response to the landlord's evidence, which the tenant had received on February 20, 2013. I determined that in order to ensure administrative fairness, it would be appropriate to adjourn the hearing as requested.

The hearing reconvened on April 2, 2013. On that date, the landlord confirmed that she had received the tenant's evidence. Part of the tenant's evidence was a CD, which the landlord stated she was unable to play. I did not admit or consider the CD as evidence in my determination of these issues.

Neither party raised any further issues regarding service of the application or the evidence. I have reviewed all testimony and other admissible evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

Is the tenant entitled to the doubled amount of the security deposit?
Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on November 1, 2011. The monthly rent was \$1600. At the outset of the tenancy, the tenant paid the landlord a security deposit of \$800. The rental unit was a basement suite in the landlord's house. The tenancy ended on November 1, 2012. The tenant gave the landlord her forwarding address in writing on that date. On November 22, 2012 the tenant filed her application for double recovery of the security deposit. On November 30, 2013 the landlord filed an application for monetary compensation and an order to retain the security deposit in partial compensation of the claim. The tenant received a cheque from the landlord for \$800, dated November 15, 2013.

Tenant's Claim – Double Recovery of the Security Deposit

The tenant stated that she received a cheque from the landlord for her security deposit on December 1, 2012, in an envelope left in her door jamb on that date. The cheque was back-dated to November 15, 2012. The tenant submitted that the cheque was left for her two days after the landlord was served with the tenant's application for double return of the security deposit and one day after the landlord filed her claim to keep the security deposit. The tenant has claimed the doubled amount of \$800, as the landlord failed to either return the deposit or make a claim to keep the deposit within 15 days of the end of tenancy and the date the tenant provided her forwarding address in writing.

The landlord's response was that she did return the security deposit on or before November 15, 2012. The landlord stated that she left the security deposit at the front door at the forwarding address provided by the tenant.

Landlord's Claim

The landlord has claimed the following:

- 1) \$756 estimated for repairs to lawn – the landlord stated that the tenant's large dog ripped up the grass in the back yard and dog urine and feces damaged the grass
- 2) \$344.88 to replace mat on trampoline – the landlord stated that the tenant's dog damaged the mat on the landlord's trampoline
- 3) \$84 estimated to repair rails that the landlord believed the tenant's dog chewed on
- 4) \$39.68 for paint - the tenant damaged some walls, which the landlord painted herself
- 5) \$478.90 estimated for painting walls that the tenant painted a darker colour

In support of her application, the landlord submitted photographs showing damage to the lawn and trampoline, dog feces on the lawn, and damage to the walls of the rental unit. She also submitted quotes and bills for the repair costs claimed.

The tenant's response to the landlord's claim was that the landlord did not voice any concerns about her dog, and the landlord did not request at any time that the tenant not use the yard. The tenant denied that her dog tore up the lawn or damaged the trampoline. The tenant acknowledged that there was some dog poop that got missed, but the tenant did her best to clean it up. The tenant also denied that her dog damaged the rails as claimed by the landlord.

The tenant stated that the alleged damage to the walls were normal wear and tear from hanging picture hooks.

Analysis

Security Deposit

I find that the tenant is entitled to the doubled amount of the security deposit, pursuant to section 38 of the Act. The tenancy ended on November 1, 2012 and the landlord received the tenant's forwarding address on that date. The landlord could not confirm what date she left the cheque in the door at the tenant's new address. I do not find it likely that the landlord would make an application to keep the security deposit two weeks after having returned the security deposit. I therefore find that the landlord failed to comply with the requirements regarding return of the security deposit, and I grant the tenant \$800, representing the doubled amount of the security deposit.

Landlord's Monetary Claim

I find that the landlord is entitled to some compensation for damage to the back lawn by the tenant's dog. The landlord's photographs clearly show that there was dog feces in the back yard near the end of the tenancy, and the tenant acknowledged that she had missed cleaning some of the dog's feces. However, I do not find that the landlord is entitled to the full amount claimed, as it is not clear how much of the damage to the lawn was done by the tenant's dog and how much may have occurred for another reason. I therefore find it is reasonable to compensate the landlord \$200 for the damage done to the lawn by the tenant's dog's feces and urine.

I find that the landlord is not entitled to compensation for the trampoline or the railings, as the landlord did not provide sufficient evidence that the damage to either of these

items was done by the tenant's dog. Further, the landlord did not provide the age of these items or take into account depreciation based on their age.

I find that the landlord is not entitled to amounts claimed for paint or painting, as she did not provide clear evidence of all of the damage or the age or condition of the paint at the outset of the tenancy.

Filing Fees

As the tenant's application was successful, she is entitled to recovery of the \$50 filing fee for the cost of her application.

As the landlord's application was only minimally successful, I find she is not entitled to recovery of the filing fee for her application.

Conclusion

The tenant is entitled to \$850. The landlord is entitled to \$200. The remainder of the landlord's claim is dismissed.

I grant the tenant an order under section 67 for the balance due of \$650. 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*.

Dated: April 15, 2013

Residential Tenancy Branch

