



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Nacel Properties Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD MNDC FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

The hearing first convened on March 18, 2013. An agent and a witness for the landlord, as well as the tenant and two advocates for the tenant, called in to the teleconference hearing. The tenant requested an adjournment to submit further evidence in response to the landlord's evidence, and the landlord did not oppose the request. I therefore adjourned the hearing.

The hearing reconvened on April 18, 2013. On that date, the landlord's agent, the tenant and one advocate for the tenant participated in the teleconference hearing. At the outset of the reconvened hearing, each party confirmed that they had received the other party's evidence. I have reviewed all testimony and other 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 landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on February 21, 2012. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$450. On February 18, 2012 the tenant and the landlord carried out a move-in inspection and completed a condition inspection report. The tenancy ended in February 2013.

Landlord's Claim

The landlord stated that the tenant was supposed to meet with the building manager to do the move-out inspection. The landlord stated that she received the tenant's key and laundry card from the maintenance man on February 3 or 4, 2013, and then she did the move-out inspection with the tenant's agent on February 6, 2013. The landlord stated that she informed the tenant's agent that the landlord would be claiming the following charges:

- 1) \$95.20 for carpet cleaning
- 2) \$280 for painting and \$98 for materials – the rental unit had been freshly painted before the tenancy began, and the tenant and his guests frequently smoked in the rental unit, so painting of the walls and ceiling was required
- 3) \$45 for 3 hours of cleaning at \$15 per hour, and \$9 for materials – to clean the unit

The landlord has claimed these amounts and in support of their claim has submitted invoices for the carpet cleaning, painting and cleaning.

Tenant's Response

The tenant stated that a moving company moved the tenant out of the rental unit before 11:30 a.m. on February 1, 2013. The tenant's advocate stated that the tenant's move was scheduled by the ministry and done on February 1, 2013. The tenant stated that he did a move-out inspection with an agent of the landlord, the maintenance man, who inspected everything and said it was all fine.

The tenant acknowledged the amount claimed for carpet cleaning but disputed the amounts for painting and cleaning. The tenant stated that nothing in his tenancy agreement forbade smoking in his unit.

Analysis

Upon consideration of the evidence, I find as follows.

The landlord is entitled to the amount claimed for carpet cleaning, as this amount was acknowledged by the tenant.

The landlord did not provide photographs or other evidence to show that additional cleaning was required, and I therefore dismiss the portion of the application regarding cleaning.

The tenant acknowledged that he smoked in the rental unit. When a tenancy agreement does not prohibit smoking but there is damage caused by smoke, the tenant is liable for the costs to repair the damage. However, the Residential Tenancy Policy Guidelines indicate that the average life of paint is four years, and I therefore find that the landlord is only entitled to 75 percent of the amounts claimed for painting and painting supplies, in the amount of \$283.50.

As the landlord's claim was mostly successful, they are also entitled to recovery of the \$50 filing fee for the cost of their application.

Conclusion

The landlord is entitled to \$428.70. I order that the landlord retain this amount from the security deposit in full satisfaction of their claim, and I grant the tenant an order under section 67 for the balance of the security deposit, in the amount of \$21.30. 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 25, 2013

Residential Tenancy Branch

