



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD, FF

Introduction

This is an application for a monetary order for \$8800.00 and a request for recovery of the \$100.00 filing fee. The applicant is also requesting an order allowing her to keep the full security deposit towards the claim

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

Has the applicant established monetary claim against the respondents, and if so in what amount?

Background and Evidence

A security deposit of \$1000.00 was collected on October 22, 2010 and the tenancy began on November 1, 2010.

There is contradicting testimony as to whether or not the move-in inspection report was done at the beginning of the tenancy with the landlord stating there was one done, and the tenant stating that there was not one done, however the landlord states that she does not have a copy of a move-in inspection report and therefore none was provided to today's hearing.

The tenants moved out of the rental unit on August 1, 2014 and the moveout inspection was done on August 2, 2014, however the tenants claim that they never received a copy of that report although they agree that one was completed during the moveout.

The landlord testified that the tenants received the rental unit and grounds in very good condition at the beginning of the tenancy and left the rental unit and grounds in very poor condition at the end of the tenancy.

The landlord testified that:

- The kitchen was left in need of significant cleaning.
- The landscaping and lawns were left completely overgrown and required significant weed removal, trimming of bushes, and mowing of lawns.
- The carpets were left absolutely filthy and had to be cleaned.
- The tenants left holes in the walls, shelves missing, corner bead chipped, a bifold door broken, and other doors damaged.
- The carpets were so badly stained and even after cleaning the stains would not come out, and therefore all the carpets had to be replaced. These carpets had been replaced by the previous owners in 2005.
- Further in 2012 the tenants had allowed the yard to become overgrown with noxious weeds and as a result she had to have landscapers come in and do yard cleanup.

Therefore the landlord is claiming damages as follows:

Kitchen cleaning	\$87.50
Repairing the landscaping and yard work	\$1550.00
Carpet cleaning	\$187.95
Repairs to damages on the interior of the house	\$725.00
Replace carpets	\$2788.80
Cost of a previous yard cleanup in 2012	\$891.80
Filing fees	\$100.00
Total	\$6331.05

The tenants testified that the rental unit was left in as good condition when they vacated the rental unit as it was received when they moved into the rental unit.

The tenants further testified that during the moveout inspection nothing was said to them about a need for further cleaning in the kitchens.

The tenants also testified that the landscaping was in poor condition when they moved into the rental unit and that they did reasonable maintenance of the lawns and landscaping throughout the tenancy. They also argue that the photos provided by the landlord as evidence do not represent the condition of the rental grounds when they vacated, and they suspect that the photos were taken well after they vacated.

The tenants also testified that when they moved into the rental unit, the carpets were not in good condition and had numerous stains, and that they left the carpets cleaned and in as good condition as they received them, other than normal wear and tear.

The tenants also dispute the landlords claim for repairs to the interior of the rental unit, claiming they left no holes in walls other than normal holes for picture hooks, and they believe the claim has been fabricated, especially since the person who provided the invoice for the repairs is the landlord's father.

The tenants also testified that the only time someone came by to do any cleanup of the grounds in 2012, was to remove some debris that had been there when they moved in, and that the parties only remained at the premises for approximately 2 to 3 hours. None of the work done was a result of any negligence on their part.

With regards to the kitchens, the landlord stated that nothing was mentioned on the moveout inspection report, because they did not find the need for further cleaning until after the inspection was done.

The landlord further stated that the landscaping at the rental unit was not left in the same condition as when the tenants moved into the rental unit and also stated that the photos, although not taken at the moveout inspection, were taken within 48 hours of that inspection and do represent the condition of the rental property when the tenants vacated.

The landlord also stated that the contractor who did the repairs is her father, however she also states that the tenants did leave the rental unit in need of significant repairs and that the holes in the walls were much bigger than normal picture hanger holes.

As well the landlord stated that in 2012 the company she hired to do the cleanup of the yard and remove the noxious weeds certainly worked more than two or three hours and as a result she had to pay a large amount of money for that cleanup.

Analysis

The burden of proving a claim lies with the applicant and when it is just the applicants word against that of the respondent that burden of proof is not met, and it is my finding that the applicant is not met the burden of proving this claim.

The applicant claims that there was a move-in inspection report produced at the beginning of the tenancy, however as stated earlier a copy of that report is not available for today's hearing and therefore it is basically just the landlord's word against the tenants as to the condition of the rental unit and grounds at the beginning of the tenancy.

Further, although there was a moveout inspection report done at the end of the tenancy, the landlord is now claiming things that were not listed on the moveout inspection report, stating that they were not noticed at the time of the inspection; however it is incumbent upon the landlord to ensure that a proper moveout inspection is done.

Kitchen cleaning

Under the Residential Tenancy Act a tenant is responsible to maintain "reasonable health, cleanliness and sanitary standards" throughout the premises. Therefore the landlord might be required to do extra cleaning to bring the premises to the high standard that they would want for a new tenant. The landlord is not entitled to charge the former tenants for the extra cleaning. With regards to the kitchen, it is my finding that the landlord has not shown that the tenants failed to meet the "reasonable" standard of cleanliness required.

I therefore deny the landlords claim for kitchen cleaning

Landscaping

As stated previously, there is no move-in inspection report available to show the condition of the landscaping at the beginning of the tenancy and therefore in this case it is just the landlord's word against that of the tenants, and since the tenants claim that they left the property in approximately the same condition as they received it, the landlord is not met the burden of proving this portion of the claim. The landlord has relied mainly upon photos to support her claim as to the condition of the property, however those photos were not taken during the moveout inspection, and although the landlord claims they were taken within 48 hours there is no evidence to substantiate that claim.

I therefore deny the landlords claim for landscaping.

Carpet cleaning and replacement

Again, it is just the landlord's word against that of the tenants as to the condition of the carpets and the beginning of the tenancy and therefore again the landlord has not met the burden of proving that the carpets would be left with any damage beyond normal wear and tear. Further, carpets have an expected life of approximately 10 years and are considered completely depreciated after 10 years and of no value and therefore since these carpets were approximately 10 years old the tenants would not have been liable for the replacement cost even if they had caused damage.

I therefore deny the claim for carpet cleaning and replacement.

Interior repairs

As above, since the tenants deny causing any damage in the rental property beyond normal wear and tear, again the landlord has not met the burden of proving this portion of the claim as there is no move-in inspection report to provide evidence as to the condition at the beginning of the tenancy.

I therefore deny the claim for interior repairs.

2012 yard maintenance

Again the landlord has not met the burden of proving this portion of the claim as it is just her word against that of the tenants, and they claim that the work done was to remove debris that was there when they moved in. Secondly however, the landlord has provided no evidence to show that she ever gave the tenants any notice that the property required a cleanup.

If the tenants were in fact breaching the conditions of their tenancy agreement, the landlord would have first been required to give the tenants notice to rectify that breach before going in and having work done herself.

I therefore deny the claim for 2012 yard maintenance.

Filing fees

Having denied the landlords full claim, I also deny the request for recovery of her filing fees.

Conclusion

This claim is dismissed in full without leave to reapply, and I have issued an Order for the landlord to pay \$1000.00 to the tenants for return of their 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: March 18, 2015

Residential Tenancy Branch

