



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: MND, MNSD, & FF

Introduction:

This hearing dealt with cross applications by the parties. The landlord is seeking a monetary claim related to damages to the rental unit and is requesting to retain the tenants' security deposit plus interest in partial satisfaction of this claim. The tenants are seeking a monetary claim for the return of double their security deposit plus interest. Both parties appeared and were provided with an opportunity to be heard and respond to the evidence of the other party.

Issues to be Determined:

Has the landlord established a monetary claim related to damage caused to the rental unit? Is the landlord entitled to retain the tenant's security deposit plus interest?

Background and Evidence:

This tenancy began on March 17, 2008 for the monthly rent of \$1,975. The two above named respondents were the head tenants; however, there were several other sub-tenants who occupied the rental unit. A security deposit of \$1,000.00 was paid on March 18, 2008.

The landlord and tenants participated in both a move in and move out condition inspection of the rental unit. During the move out inspection on October 1, 2008 the landlord and tenants discussed issues with a stain in the master bedroom, a missing dead bolt in the front door, carpet cleaning and nicks to the walls of the rental unit.

The landlord e-mailed the tenants on October 11, 2008 respecting the damages identified during the move out. The landlord provided the tenants with estimates of the repairs required. The landlord indicated that the carpet could be repaired for the cost of \$430.50, the damage to walls for \$275.50 and the missing deadbolt for \$42.00. The landlord proposed to deduct this from the tenants' security deposit plus interest and issue the tenants the remaining sum of \$252.00 (not including the accumulated interest). The landlord also identified other issues which were not discussed during the move out, but did not indicate that she would be charging the tenants for any additional costs.

The tenants assigned an agent to respond to the landlord's e-mail and there are two e-mail communications on file. It is clear that the tenants disputed some of the charges of

the landlord. However, the tenants have not disputed the damages originally agreed to. The parties were unable to reach a consensus and each has filed for dispute resolution.

The landlord is seeking the following claim for damages to the rental unit:

Repair of stain to carpet in master bedroom	\$409.50
Repair of damage to walls and painting	\$272.50
Replacement of deadbolt	\$42.00
Carpet cleaning	\$160.00
Recovery of \$50.00 filling fee for application	\$50.00
Total	\$934.00

The landlord indicated that the carpet in the master bedroom is eight years old and that the rental unit was painted prior to the tenants' taking possession of the rental unit.

The tenants dispute that all of the marks on the wall were caused during their tenancy. They stated that they have no knowledge as to what happened the missing deadbolt, but acknowledged that they did not replace it at the end of the tenancy. The tenants dispute the landlord requesting reimbursement for travelling and gas as part of the cost associated with repairing the walls of the rental unit.

Analysis:

With respect to the dispute between the parties I am satisfied that initially there was a verbal agreement to some of the damage to the rental unit and an agreement that costs related to this damage could be deducted from the security deposit. I accept that the parties were in direct communication about the cost of repairs before the dispute escalated. I also accept that the landlord complied with section 38(1) of the *Act* by filing an application to retain the tenants' security deposit within fifteen days of the end of the tenancy. Therefore, I dismiss the tenants' application for the return of double their security deposit.

I accept that the landlord's claim for damages to repair the rental unit is based largely on issues that the tenants' agreed was due to their tenancy. However, I find that the landlord's claim must be adjusted to reflect only damages noted on the move out condition inspection and also must be reduced to reflect normal wear and tear and depreciation.

For example, the landlord has filed a sum of \$272.50 to repair the walls of the rental unit and to do some touch up painting. However, the move out condition inspection report only identifies damage to the walls in the front entry, living room and stairway and hall. I also reject the claim by the landlord for travel time and gas included in this charge. These are normal expenses of being a landlord and are not recoverable from the tenants. I find that the landlord is entitled to the sum of \$100.00 to repair the walls and touch up the paint in the areas identified in the move out condition inspection report.

I accept the landlord's claim in full for the replacement of the deadbolt, the carpet cleaning. I accept that the tenants removed the deadbolt to install a locking mechanism they favoured and that it subsequently went missing. I also find that it is a normal obligation of tenants to have carpets cleaned at the end of a tenancy.

I also accept the landlord's claim for the cost to repair the carpet. I find that this is a reasonable cost of repairing the carpet. I also accept the landlord's request to recover the \$50.00 filling fee from the tenants.

I find that the landlord has established a total monetary claim of \$711.50 for damages to the rental unit. I Order that the landlord may deduct this sum from the tenants' security deposit plus interest of \$1,010.94. This leaves a balance of \$299.44 owing to the tenants.

Conclusion:

I have dismissed the tenants' application for the return of double their security deposit plus interest as the landlord failed to retain the security deposit in accordance with section 38(1) of the *Act*. I have accepted the landlord's application in part, and ordered that the landlord may retain \$711.50 from the tenants' security deposit plus interest. The remaining balance of \$299.44 should be immediately returned to the tenants.

Dated December 08, 2008.

Dispute Resolution Officer