



Dispute Resolution Services

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

Decision

Dispute Codes: MND 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 landlord and one of the two tenants, who acted on behalf of both tenants, appeared in the teleconference hearing.

In the hearing the tenant initially stated that she had not received any of the evidence of the landlord. The landlord's testimony was that she sent the first package, containing documentary evidence, by registered mail, and she sent the second package, containing photographs, by regular mail to the same address as the first package. The tenant then acknowledged that she did receive the first package of documentary evidence. Later in the hearing the tenant stated that she was present when the landlord took the photographs at the time of the move-out inspection. I find that the landlord complied with the service requirements for evidence, and the tenant did not provide sufficient evidence to rebut the presumption of service. Therefore, I admit the photographs as evidence.

Issue(s) to be Decided

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on April 1, 2007. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$450. The tenancy agreement contains a clause as follows: "Before tenant moved in Condition inspection report was done by landlord and tenant Included in the suite: all window covering, fridge, stove and

washer all appliances are clean and working. All walls are clean. Carpet is clean. There is no damage at all into suite.” The tenancy ended on November 1, 2008. On that date, the landlord and tenant conducted a move-out inspection and the landlord took photographs. The landlord noted damage to the carpets and the walls, and the suite required further cleaning. On November 26, 2008 the landlord received the tenants’ written forwarding address, and on November 28, 2008 the landlord filed this application.

The landlord claims the following:

1) \$2225 to remove and replace all carpets in the rental unit

At the end of the tenancy, the carpet was three and a half years old. The landlord’s evidence, including photographs, was that the carpet in all of the rooms except one small bedroom was damaged with stains, cigarette burns and rips. The landlord removed and replaced all of the carpet in the unit, and provided a receipt for \$2225.

The response of the tenant was that there were some rips in the carpet when they first moved in, contrary to what was indicated in the tenancy agreement. The tenant acknowledged that they did cause some carpet stains from spilled beer, but stated that they never smoked inside because of the baby.

2) \$55.86 for cleaning supplies and \$200 for cleaning

The landlord submitted a receipt for cleaning supplies to clean the unit after the tenants moved out. The items purchased were: 3 x plug-in oil, degreaser, Mr. Clean, 2 x gloves, smoke eliminator; and easy-off. The landlord’s testimony was that the rental unit smelled very strongly of cigarette smoke, and the landlord therefore had to buy the plug-ins to eliminate the smell before cleaning. The landlord called for estimates for cleaning, and received quotes of \$400 or more, but she was able to find someone who would clean the unit for \$200. The landlord provided as evidence a receipt for that amount.

The tenant acknowledged that they did not clean the fridge or oven before they moved out, but she disputed the landlord’s complaint about the smell of cigarette smoke.

3) \$200 to repair holes in the walls

The landlord provided photographs of holes in the walls. The landlords did the work themselves, and paid approximately \$100 for supplies and estimated \$100 for labour. The landlord did not provide any receipts for the supplies.

The tenant's response regarding the holes in the walls was that they were already there on move-in and the walls in question were made of a very flimsy, cheap wood panel material.

4) \$200 for painting

The landlord did not have to purchase the supplies. The landlord painted the entire suite herself, over two days, and she estimated her labour at \$200. The landlord did not provide evidence regarding the age of the paint.

The tenant's response was that the painting was needed.

Analysis

After considering all of the testimonial, photographic and documentary evidence, I make the following findings on the items claimed:

1) carpets

Based on the signed tenancy agreement describing the clean, undamaged condition of the rental unit, I accept the landlord's evidence that the carpets were not damaged at the beginning of the tenancy, and that the tenants damaged the carpets. However, the landlord did not provide evidence of the square footage of carpet that needed to be removed and replaced, a breakdown of the costs of supplies and labour, or any evidence that the replacement carpet was of similar value and quality to the damaged carpet. The landlord's photographs do not provide sufficient evidence that the extent of the damage required that all of the carpets needed to be replaced. Further, the landlord acknowledged that the tenants did not damage the carpet in one of the rooms, but the

landlord replaced the carpet in that room as well. The average useful life of carpets is 10 years, and in this case the landlord's evidence was that the carpets were three and a half years old, so the amount to which the landlord is entitled must be reduced by 35 percent. I therefore find that the landlord is entitled to \$1000 for the carpets.

2) cleaning supplies and labour

I find that cleaning was needed, and the landlord is entitled to compensation for supplies and labour. I find the landlord is not entitled to the cost for the plug-ins, and I therefore deduct \$26.85 from the cleaning supplies, for a total of \$29.01. The landlord did not provide a breakdown of hours and rates for the cleaning; however, the photographs do provide some evidence of the dirty condition of the unit and appliances, and I therefore find the landlord is entitled to \$200 as claimed for cleaning.

3) repairing holes in the walls

I find, based on the tenancy agreement, that the tenants caused the holes in the walls. The landlord only provided estimates for the cost of supplies and labour to repair the holes, and in the absence of sufficient evidence I do not find the amount claimed to be reasonable. I find the landlord is entitled to \$100 for repairing the holes in the walls.

4) \$200 for painting

The average useful life of interior paint is four years. The landlord did not provide evidence regarding the age of the paint, or a breakdown of hours of labour. I therefore dismiss the landlord's claim on this point.

The landlord is entitled to recovery of the \$50 filing fee, for a total claim of \$1379.01.

Conclusion

I order that the landlord retain the deposit and interest of \$461.92 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$917.09. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated January 21, 2009.