

## **DECISION AND REASONS**

**Dispute Codes:** MNSD, MND, FF

### **Introduction**

This hearing was convened upon the application of the landlord seeking:

1. A monetary order for damage in the sum of \$1,000.00;
2. An order to be allowed to retain the security deposit; and
3. Recovery of the filing fee paid for this application.

All parties appeared and gave evidence under oath.

### **Summary of Background**

The landlord testified that this tenancy began on August 15, 2006 and ended on May 31, 2009. A security deposit of \$1,000.00 was paid on August 9, 2006. The landlord testified that they have taken over management of this rental unit from a previous landlord/manager and a move-in inspection report was not prepared. The landlord testified that they attempted to prepare a move-out report but the tenant did not participate after having been given two opportunities to do so.

The landlords testified that she met with the tenant along with two others in the rental unit at which time she pointed out the grease stains to the tenant and asked how the grease spots got onto the carpet. The landlord says that the tenant said that the grease spots may have been caused by his 7 year old son's bike. The landlord produced two witnesses who testified that they were also present during this conversation. Both confirmed what the landlord said.

The landlord said that the carpet was 1 year old when the tenant moved in and the tenant has occupied the suite for 3 years. The landlord produced a quotation from Finishing Touch Carpets setting out that replacing the carpet in the living room and dining room would cost \$1,204.88. The landlord says they realize they are responsible for normal wear and tear and are not asking that the tenant pay to re-carpet the entire rental unit only the areas that were damaged. The landlord testified that they are not even seeking the entire amount of the replacement and only asking to retain the security deposit of \$1,000.00 to cover partial costs. The landlord also produced photographs of the grease spots.

The tenant says he did not say that his son's bike cause the grease spots on the carpet. The tenant says that he did mention that it may have been his son's scooter. The tenant testified that had no idea where the spots may have come from until he rented the steam cleaner and was advised by the steam cleaning rental proprietor that the marks could have come from previous cleaning. The tenant says he never noticed the marks during his tenancy and he never complained of any marks on the carpet further, the tenant says the carpets were clean when he left the rental unit. The tenant argues that he has no way of verifying how many potential renters and representatives of the landlord were in the rental unit dirtying the carpets after the tenancy ended and before the marks were discovered.

The tenant produced emails between himself and the owner of the rental unit in which the condition of the carpets is discussed. In one email the tenant tells the landlord "...normal wear and tear and maintenance is the landlords responsibility" to which the landlord responds "As for the carpets I don't agree that bike grease would fall under normal wear and tear. I am actually concerned that it may not come out. What I will do though is try to have it cleaned and see what the outcome is." (*reproduced as written*) to which the tenant replies "I will clean the carpets this week and let you know how it looks". On June 8 the landlord wrote again to the tenant advising "We've checked the condo and the carpet cleaning but it looks like those grease stains did not come out." To which the tenant responds "I really don't want this to go any further and involve lawyers and hearings, but to protect myself I contacted the tenancy office and was advised that my obligation was to clean the carpets. The fact that it was rented for almost three years and is a light cream coloured carpet, stains are a cost of doing business for the landlord".

## Findings

The tenant testified that he never said his son's bike caused the marks although he may have said his son's scooter may have caused the marks. The tenant also testified that there were no marks at all on the carpet that he noticed yet the tenant produces email correspondence between himself and the landlord discussing the stains on the carpet. In those emails the tenant advises the landlord that "...stains are a cost of doing business for the landlord". Based on the tenant's own evidence and the evidence of the landlord and her two witnesses I find that there were grease marks on the carpet at the end of this tenancy. I find it reasonable and probable that the grease marks were caused either by the tenant's son's bike or his scooter. Either way, grease marks on a carpet are not reasonable wear and tear and do not fall within the landlord maintenance responsibilities. I therefore find that the landlord is entitled to recover the cost of replacing the carpets as requested. I will allow the landlord to retain the security deposit of \$1,000.00 plus interest accrued in the sum of \$32.31 in full satisfaction of the landlord's claims.