



Dispute Resolution Services

Residential Tenancy Branch
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. Both parties participated in the conference call hearing.

Issues(s) to be Decided

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that the tenancy began on December 1, 2007 and ended on August 31, 2009. The tenant paid a \$450.00 security deposit on November 7, 2007. The parties performed inspections of the rental unit both at the beginning and at the end of the tenancy. The second inspection was attended by an agent of the tenant. The tenant's agent signed the move-out condition inspection report and indicated that she agreed that the report fairly represented the condition of the rental unit. The agent submitted a letter in support of the tenant in which she stated that she had been surprised to have been asked by the landlord to initial the report and stated that she did so reluctantly and that she "disagreed with most of his findings." There is no indication on the condition inspection report that the agent disagreed with anything in the report. The report states that the carpet in the unit "smells cat piss," that in the kitchen there is "one cabinet door out," and that the "fridge and stove needs to be cleaned." The tenant

submitted statements from a friend who helped her clean the unit and from her father who helped her move and noted that the unit had been thoroughly cleaned.

The landlord's claims and my findings around each are set out below.

[1] **Refrigerator and stove cleaning.** The landlord claims \$72.00 for 4 hours of time and labour spent cleaning the refrigerator and stove in the rental unit. The landlord claimed the appliances were not cleaned and referred to the condition inspection report in which he had written that the refrigerator and stove required cleaning. The tenant testified that she cleaned the appliances. I do not accept the argument of the tenant and her agent that the condition inspection report does not accurately reflect the condition of the rental unit. The agent had the opportunity to list her disagreement with the landlord's assessment of the condition of the unit and chose not to do so, instead signing where it indicated that she agreed with the report. I find that in doing so, she acknowledged that the landlord had made an accurate assessment and I will not accept her later position that her signature on the form did not indicate agreement. The agent represented the tenant and the tenant is bound by the actions of her agent. I find that the refrigerator and stove were not adequately cleaned at the end of the tenancy. The landlord did not provide any photographs showing the condition of the appliances and I find the 4 hours claimed by the landlord to be excessive as I find it difficult to imagine that the appliances could have been so soiled as to require such extensive labour. In the absence of evidence that the appliances were excessively soiled, I find that an award for 2 hours of labour will adequately compensate the landlord. I accept the landlord's rate of \$18.00 per hour as reasonable and I award the landlord \$36.00.

[2] **Painting.** The landlord claims \$108.00 as the cost of painting the living room at the end of the tenancy. The landlord testified that the living room was last painted 2 ½ years prior to the end of this tenancy and claimed that it took him 6 hours to repaint the room. The landlord testified that the walls had scratches on them and holes from where pictures or posters had been hung. The tenant testified that she didn't scratch the walls and that while she hung posters, the holes created should

be considered reasonable wear and tear. The landlord did not provide any photographs showing the condition of the walls. In the absence of such evidence, it is impossible to determine whether the damage alleged can be attributed to reasonable wear and tear or whether the damage was sufficiently significant to warrant an award. I find that the landlord has failed to prove that the tenant caused damage which could be characterized as having gone beyond reasonable wear and tear and accordingly dismiss this claim.

[3] **Carpet cleaning.** The landlord claims \$40.95 as the cost of renting a carpet cleaner and cleaning solution and a further \$72.00 for 4 hours of labour for cleaning carpets. The landlord acknowledged that the tenant had the carpets cleaned at the end of the tenancy, but testified that there was a strong smell of cat urine in the unit that wasn't removed by the tenant's carpet cleaning. The landlord testified that he rented a steam cleaner and spent 4 hours cleaning the carpets but was unable to remove the odour. The landlord provided a copy of the receipt from Home Hardware showing that he rented a steam cleaner and purchased cleaning solution. The tenant testified that there was no odour of cat urine and insisted that her cat had never urinated outside of the litterbox that was provided for her. The tenant provided letters from parties who had visited her who confirmed that there was no odour of cat urine in the rental unit. Again, I have considered the condition inspection report which showed that at the time of the inspection, the landlord noted an odour of cat urine. The tenant's agent agreed that the odour was present at the time the inspection was performed and I accept that agreement as an accurate assessment. I find that the landlord acted reasonably in attempting to minimize his losses by cleaning the carpets further and find that the tenant must bear the cost of materials and labour for the additional cleaning. I award the landlord \$112.95

[4] **Carpet replacement.** The landlord claims \$365.93 as the cost of replacing the carpets in the rental unit and \$180.00 as the cost of replacing the underlay and the labour to install the underlay and carpets. I accept that the landlord was unable to

remove the odour of cat urine from the carpets and find that the tenant must be held liable for the value of the carpets at the time of the loss. The landlord testified that the carpets were two years old at the time of the loss. Residential Tenancy Policy Guideline #37 identifies the useful life of a carpet as 10 years. I find that the tenant deprived the landlord of the use of 80% of the life of the carpet and accordingly find that the landlord is entitled to recover 80% of the cost of replacing the carpets. I award the landlord \$436.74.

- [5] **Cabinet door repair.** The landlord claims \$36.00 in compensation for 2 hours of his labour to repair a cabinet door and \$9.62 as the cost of hinges that required replacement. The landlord testified that at the end of the tenancy he discovered that one cabinet door in the kitchen had come off. The tenant testified that the door fell off during the tenancy. In order to establish his claim the landlord must prove that the door fell off through the act or negligence of the tenant rather than as a result of reasonable wear and tear. I find that there is insufficient evidence to show that the damage occurred through something other than reasonable wear and tear and accordingly I dismiss this claim.
- [6] **Postal fees.** The landlord claims \$9.03 spent sending documents to the tenant by registered mail. Under the Act the only litigation related cost I am empowered to award is the cost of the filing fee. Accordingly I dismiss this claim.
- [7] **Loss of income.** The landlord seeks \$450.00 in lost income for the period from September 1 – 15. The landlord testified that he received notice in July that the tenant would be vacating at the end of August and that he did not begin advertising the rental unit until August 31. In order to establish his claim, the landlord must prove that the tenant caused damages which were sufficiently extensive to prevent him from re-renting for a period of time and must further prove that he acted reasonably to minimize his losses during that time. The landlord did not replace the carpets in the unit until after subsequent tenants had already moved into the rental unit and I find that the damage caused by the tenant did not cause the delay in re-renting. Rather, I find that the landlord was not able to re-rent the unit for

September 1 because he did not begin advertising the unit until August 31. The claim is dismissed.

[8] **Filing fee.** The landlord seeks to recover the \$50.00 paid to bring this application. I find that the landlord is entitled to recover the fee and award the landlord \$50.00.

In summary, the landlord has been successful in the following claims:

Refrigerator and stove cleaning	\$ 36.00
Carpet cleaning	\$ 112.95
Carpet replacement	\$436.74
Filing fee	\$ 50.00
Total:	\$635.69

I find that the landlord has established a claim for \$635.69. I order that the landlord retain the \$450.00 security deposit and the \$7.79 in interest which has accrued in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$177.90. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: January 14, 2010
