

## **DECISION**

Dispute Codes      FF, MNDC, MNSD

### Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issues(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The landlord's application is a request for a monetary order totalling \$1592.50, and a request to keep the full security deposit of \$850.00 towards the claim.

The tenant's application is a request for a monetary order for \$7,500.00 and a request that the respondent/landlords bear the \$100.00 cost of the filing fee that was paid for the application for dispute resolution.

## Landlords application

### Background and Evidence

The landlord testified that:

- The tenant caused permanent staining in the bedroom carpet and as a result the carpet will need to be replaced at a cost of \$756.81.
- The tenant also left the rental unit in need of substantial cleaning and as a result they had to pay \$294.00 to have the rental unit cleaned.
- At the end of the tenancy they found two kitchen cabinet doors had been ripped off of their hinges and could not be repaired, and as a result they were replaced in a cost of \$125.44.
- The tenant also broke the lens on the ceiling fixture in the kitchen and they were unable to find a replacement part and therefore had to replace the fixture at a cost of \$118.04.
- The tenant also left the carpets in the rental unit in need of cleaning at a cost of \$100.00.
- Most of the fixtures in the rental unit were left with either burned out or missing florescent bulbs and as a result the landlord had to replace a total of 15 bulbs however they are only charging for 10 at a cost of \$35.96
- The tenant broke off his key in the lock and they had to have a locksmith repair it at a cost of \$12.00.
- The tenant caused a large gouge in the linoleum in the rental unit and they are therefore asking for \$50.00 for compensation.
- The tenant was supposed to move out by 1 p.m. on the final day of the tenancy however the tenant did not vacate until 6 p.m. and therefore they are asking for \$50.00 for overholding.

- They also request that the tenants bear the \$50.00 cost of the filing fee that they paid for the application for dispute resolution.

The tenant testified that:

- He contacted the people who cleaned the carpets in the rental unit and was informed that there were no stains left over at the end of the cleaning and all stains had been removed.
- He disputes the need for cleaning of the rental unit as he left the rental unit cleaned to a professional standard. He did not clean behind or under the appliances, because they were not on wheels and did not want to damage the floor by moving them.
- They did not abuse the kitchen cabinets in any way and in fact the damage resulted from normal daily use. These were particleboard cabinets that just wore out and he should not be held liable for the cost to repair them.
- He does not dispute the cost of carpet cleaning as he had agreed to this already.
- He believes that burned out bulbs are just normal wear and tear.
- He did break a key off in the lock however it was not due to any abuse the key just broke under normal use.
- There was already 1 gouge in the linoleum when he moved into the rental unit and he discussed it with the landlords at that time however they failed to write it down on the move in inspection report. The landlords were fully aware of the gouge.
- The landlords had agreed to allow him until 6 p.m. to move out of the rental unit and had never stated that they expected to be paid any extra rent for this extra five hours of time.

## Analysis

### Carpet replacement

I am not convinced of the carpets in this rental unit are in need of replacing. The evidence provided by the landlords shows some small stains, but nothing major.

I therefore deny the claim for replacing the carpets however I will allow \$100.00 for depreciation.

### 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. In this case it is my decision that the landlords have not shown that the tenants failed to meet the "reasonable" standard of cleanliness required.

Further unless appliances are on wheels and it is not reasonable to expect the tenants clean under or behind the appliances, as moving them could cause damage to the floors.

I therefore deny the claim for cleaning.

### Kitchen cabinet doors

I also deny the claim for replacing the kitchen cabinet doors, because the landlords have not met the burden of proving that this damage was caused by any negligence on the part of the tenants.

The tenant's claim that the damage occurred under normal use and although the landlords claim that could not have happened they have provided no evidence to support that claim.

### Kitchen fixture

The tenant claims that the fixture was cracked when he moved into the rental unit however there is no evidence to support that claim and since the tenant admits that he did cause damage to the fixture is my decision that I will allow the claim for replacing the kitchen fixture.

Amount allowed for kitchen fixture \$118.04.

### Carpet cleaning

The tenant does not dispute this portion of the claim and therefore I allow the claim of \$100.00.

### Fluorescent tubes

The tenant has argued that burned out tubes are normal wear and tear however it is my decision that the tenant is responsible for replacing any tubes that burn out during the tenancy and therefore I allow the claim for \$35.96 to replace the tubes.

### Locksmith charge

The landlords have not met the burden of proving that this key broke due to any negligence on the part of the tenant and therefore it is my decision that I will not allow the claim for the locksmith charge.

## Linoleum gouge

The tenant claims that this gouge existed when he moved into the rental unit however he has not met the burden of proving that claim.

The landlord however has not supplied any evidence to show what the cost would be to repair the gouge in the linoleum.

In the absence of any estimate I am only willing to allow \$25.00

## Overholding charge

I will not allow the landlords claim for an overholding charge. The landlords have lost no money as a result of the tenant staying five hours longer than normal and although they claim they were going to offer the \$50.00 to the new tenant's there is no evidence that they have ever done so.

## Filing fee

I order that the landlords bear the cost of their filing fee as I have only allowed a small portion of their claim.

## Tenants claim

## Background and Evidence

The tenant testified that:

- He has paid a security deposit of \$850.00 and he wants an order for the return of the full deposit.

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- On May 20, 2010 the landlord entered his rental property, without his permission, to show the property to prospective renters.
- His 18-year-old daughter had allowed the landlords to enter however she is not on the tenancy agreement and she had no authority to allow the landlords entry.
- At the time that the landlords entered the rental unit he had numerous sensitive documents out in the open and therefore considers this a serious breach and invasion of privacy.
- He is therefore requesting an order for \$6,650.00 for this violation of his quiet enjoyment.

The landlords testified that:

- On May 20, 2010 they had prospective tenants who wanted to view the rental suite.
- They called and his daughter, who lived in the suite as well, said that it would be okay to bring the prospective tenants through the suite.
- They therefore took the prospective tenants through the suite, however at no time did they compromise any of the tenants sensitive documents and the tenant in his own e-mail stated that he does not believe any of the documents were disturbed.
- They also felt they were acting in the tenant's best interest, as the tenants had requested to be allowed out of the rental agreement before the end of the lease and therefore they were attempting to re-rent the unit to mitigate any loss to the tenant.

## Analysis

### Security deposit

The return of the security deposit is entirely dependent on the outcome of the landlords claim and since I have allowed a portion of the landlords claim, I will order that that amount be deducted from the security deposit and the remainder returned to the tenant.

### Violation of quiet enjoyment

I deny the tenants claim for violation of quiet enjoyment.

The landlords were allowed into the rental unit by the tenant's 18-year-old daughter and therefore it is my decision that they had permission to enter from an occupant of the rental unit and did not breach the Residential Tenancy Act or the tenancy agreement.

If the tenant did not want people in his rental unit due to the sensitive nature of any documents he had in the open, he should have informed his daughter that she was not to allow anybody in.

I do not accept the tenant's argument that since his daughter was not on the tenancy agreement she had no authority to allow the landlords in, and there is no evidence to show that the tenant ever informed the landlords that his daughter had no authority to allow anyone into the rental unit.

### Filing fee

I order that the tenant bear the cost of his filing fee, as I have only allow a small portion of his claim



## Conclusion

### Landlord's application

I have allowed \$379.00 of the landlords claim and therefore the landlords may retain \$379.00 of the tenant's security deposit.

The remainder of the landlords claim is dismissed without leave to reapply.

### Tenants claim

I have allowed the landlords to keep \$379.00 of the tenant's security deposit, and therefore the remainder of the security deposit, in the amount of \$471.00, is ordered return to the tenant.

The remainder of the tenants claim is dismissed without leave to reapply

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: October 20, 2010.

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Dispute Resolution Officer