



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes FF, MNSD, MNR, MNDC

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 is a request for a monetary order for \$2170.00 and a request to retain the full security deposit towards the claim.

Background and Evidence

The applicants testified that:

- Due to extensive cigarette smoking in the rental unit over the 10-year term of the tenancy there is extensive damage in the rental unit.
- The carpet was badly stained and would not come clean and as a result had to be replaced.
- The walls in the rental unit were so badly stained with cigarette smoke that extra painting was required to cover up the nicotine staining.
- The drapes in the rental unit were left torn.

- A lamp globe was missing from the rental unit.

The applicants are therefore requesting an order as follows:

extra painting required	\$1100.00
Damage drapes	\$300.00
Missing lamp globe	\$20.00
Filing fee	\$50.00
Total	\$2170.00

The tenant's representative stated that:

- The tenant was allowed to smoke in the rental unit and therefore the landlords must expect there to be some build-up of smoke smell.
- The tenant was in the rental unit for 10 years, and the landlords did no painting in that full-term even though it's normal to paint approximately every three years. Therefore the landlord should expect to have to paint the rental unit.
- They do not dispute the missing globe.

Analysis

It is my decision that I will not allow the claims for replacing the carpets or for replacing the drapes.

Awards for damages are intended to be restorative, meaning the award should place the applicant in the same financial position had the damage not occurred. Where an item has a limited useful life, it is necessary to reduce the replacement cost by the depreciation of the original item. The expected useful life of both drapes and carpets is approximately 10 years. As they were both over 10 years old they are considered to be completely depreciated.



Dispute Resolution Services

Page: 3

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I also deny the claim for painting, because it's reasonable for landlords to expect to have to paint approximately every three years. In this case the tenant was in the rental unit for 10 years and therefore the landlord should have expected to have to paint the unit 3 times during that term however no painting was done during the full-term of the tenancy.

Therefore although the landlord may have extra cost to paint the rental unit at this time, they were saved the cost of painting on two previous occasions.

The tenant does not dispute the claim for the missing globe and therefore I allow that portion of the claim however I will not allow the claim for the filing fee and order that the landlord bear that cost.

Conclusion

I have allowed \$20.00 of the claim and therefore the landlords may retain \$20.00 of the security deposit. The remainder of the security deposit totalling \$365.00, plus interest of \$26.30, for a total of \$391.30, must be returned to the tenant and I have issued an order for the landlord to do so.

The remainder of the landlords 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: November 30, 2010.

Dispute Resolution Officer