



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes FF, MNSD, MND

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.

Issue(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 for \$548.00, a request for recovery of the \$50.00 filing fee, and a request to retain a portion of the security deposit towards the claim.

The tenant's application is a request for return of double the \$750.00 security/pet deposit for a total of \$1500.00 and a request for recovery of the \$50.00 filing fee.

Background and Evidence

The landlords testified that:

- At the beginning in the tenancy the flooring in the rental unit was in good condition although it did have some gaps between the boards.
- At the end of the tenancy the flooring was found to have significant damage likely caused by water and the surface is lifting on the number of the boards, which will have to be replaced.
- At the end of the tenancy there were also two towel bars that had been pulled off of the wall and have to be repaired.

The landlord is therefore requesting an order as follows:

Repair the flooring	\$420.00
Removing furniture so floor can be repaired	\$80.00
Registered mail for hearing package	\$8.00
Filing fee	\$50.00
Total	\$598.00

The landlord therefore requests that they be allowed to keep \$598.00 of the security/pet deposits to cover these costs.

The tenants testified that:

- The floor was damaged when they moved into the rental unit and it was pointed out to the landlords when they did the move-in condition inspection.
- The landlord who was filling out the form did not write down the damage he only wrote down gaps in the flooring.
- They did not damage any of the towel bars during the tenancy and did not even use the small ones.

The tenants therefore believe that the landlord's full claim should be dismissed, and that the landlord should be ordered to pay double the security/pet deposit to them, because

the landlords have not complied with the Residential Tenancy Act and returned their deposit within the 15 day time limit.

Analysis

It is my finding that the tenants do have the right to the return of double their security deposit, because the landlords did not have the right to file a claim against the security deposit, and therefore should have returned it within the 15 day time limit.

Section 24(2)(c) of the Residential Tenancy Act states:

(2) The right of a landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the landlord

(c) does not complete the condition inspection report and give the tenant a copy of it in accordance with the regulations.

In this case although the landlords did do a move-in and move-out inspection, they did not complete a report that was in compliance with the regulations. The inspection reports completed by the landlord were missing numerous sections that are required to be included and therefore their right to claim against the security deposit and pet deposit for damages was extinguished.

The following is the standard information that **must** be included in a condition inspection report, the sections in **bold** are the sections that the landlords failed to include in their report.

20 (1) A condition inspection report completed under section 23 or 35 of the Act must contain the following information:

- (a) the correct legal names of the landlord, the tenant and, if applicable, the tenant's agent;
- (b) the address of the rental unit being inspected;

(c) the date on which the tenant is entitled to possession of the rental unit;

(d) the address for service of the landlord;

(e) the date of the condition inspection;

(f) a statement of the state of repair and general condition of each room in the rental unit including, but not limited to, the following as applicable:

- (i) entry;
- (ii) living rooms;
- (iii) kitchen;
- (iv) dining room or eating area;
- (v) stairs;
- (vi) halls;
- (vii) bathrooms;
- (viii) bedrooms;
- (ix) storage;
- (x) basement or crawl space;
- (xi) other rooms;
- (xii) exterior, including balcony, patio and yard;
- (xiii) garage or parking area;

(g) a statement of the state of repair and general condition of any floor or window coverings, appliances, furniture, fixtures, electrical outlets and electronic connections provided for the exclusive use of the tenant as part of the tenancy agreement;

(h) any other items which the landlord and tenant agree should be included;

(i) a statement identifying any damage or items in need of maintenance or repair;

(j) appropriate space for the tenant to indicate agreement or disagreement with the landlord's assessment of any item of the condition of the rental unit and contents, and any additional comments;

(k) the following statement, to be completed by the tenant:

I,

Tenant's name

☐ agree that this report fairly represents the condition of the rental unit.

☐ do not agree that this report fairly represents the condition of the rental unit, for the following reasons:

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(l) a space for the signature of both the landlord and tenant.

(2) In addition to the information referred to in subsection (1), a condition inspection report completed under section 35 of the Act *[condition inspection: end of tenancy]* **must contain the following items in a manner that makes them clearly distinguishable from other information in the report:**

(a) a statement itemizing any damage to the rental unit or residential property for which the tenant is responsible;

(b) if agreed upon by the landlord and tenant,

(i) the amount to be deducted from the tenant's security deposit or pet damage deposit,

- (ii) the tenant's signature indicating agreement with the deduction, and
- (iii) the date on which the tenant signed.

Therefore in the tenants application I allow the full amount claimed.

However that being said, it is also my decision that I will also allow the majority of the landlords claim.

It is my finding that the landlords have shown that the floors in this rental unit were damaged during the tenancy. I do not accept the tenants claim that the damage existed when they moved in. Although the move in inspection report does not comply with the Residential Tenancy Act, it does have sufficient information to show that the floors were not damaged at the beginning of the tenancy, and they certainly were at the end.

I therefore allow the landlords claim for floor damage and for the cost of having the furniture removed to do the floor repairs.

I also allow the claim for replacing the towel racks, as there is no evidence that they were not properly attached of the beginning of the tenancy.

I deny the claim for registered mail as this is a cost of the dispute resolution process and I have no authority to award costs.

Having allowed the majority of both the landlord and the tenants claims I also order recovery of the filing fee in both files.

Conclusion

I have allowed the tenants full claim of \$1550.00, and I have allowed \$590.00 of the landlords claim. I therefore set off that \$590.00 against the \$1550.00 and have issued a monetary order in favour of the tenants in the amount of \$960.00.

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: March 23, 2011.

Residential Tenancy Branch