



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation for damage to the unit - Section 67;
2. An Order to retain the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenants were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on May 1, 2009. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$800.00. A move-in and move-out inspection was completed by the Landlord and Tenants. The move-out inspection notes the Tenants’ comments that the walls were not required to be repainted and that the flooring estimate to correct damages was “ridiculously inflated.”

The Landlord states that the unit was in mint condition at move-in as it had just been remodelled. The Landlord states that the Tenants left pen marks on the walls and painted over marks and picture holes on the walls with different color paint than the original. The Landlord states that the laminate flooring in the living room was broken in one area and as a result all the flooring needed replacement. The Landlord submitted an invoice from a company detailing the remedial work done to date on the unit, which

includes paint to walls and trim, and an estimate for remedial work to the flooring yet to be completed.

The Tenants agree to the damages and claim in relation to a broken spindle, light covers, door stops, weather stripping and one blind as set out in the Landlord's invoice. In relation to the other items on the invoice, the Tenant states that the doors were not freshly painted at move-in and that the paint was peeling off and chipping during the tenancy. The move-in report notes dents and scratches from pets. The Tenant states that the other blinds were not new and were unravelling from the bottom at move-in, that light bulbs were missing at move-in and that only one screen of the three bent screens had a small tear in it. The Landlord states that all the blinds were broken. The move-in report notes 4 blinds in the living room and kitchen with unreadable comments and 3 blinds in the bedrooms had no comments. The Tenants state that they are not liable for the replacement of light bulbs as there were light bulbs missing at move-in. The move-in report notes missing light bulbs.

The Tenant states that when they moved, they left a swing set for the new Tenants who were known to have children, that the back yard was covered with snow and that a couple of the children's toys may have been left but that they were unaware of anything else that may have caused the Landlord to do any clean-up of the yard. The Landlord states that cans and papers were left in the yard. The Landlord states that none of the charges for the yard clean-up included the removal of a swing set left by the Tenants. The move-out report notes the back yard as a mess.

The Tenant states that Molly Maid had been hired to complete the move-out cleaning and that the renovation company unplugged the freezer causing it to drain. The Landlord states that the freezer had been left full of ice. The move-out report notes that the freezer is dirty and contains food.

The Tenant states that he had asked the Landlord for the right paint color for the walls or the contact information for the company that did the recent remodelling in order to

locate the right color for the walls. The Tenant states that the Landlord did not provide this information, made no effort to assist with obtaining the right color and best efforts were made by the Tenant to match the paint and touch up the walls prior to the move-out. The Landlord agrees that he told the Tenant to take paint and find a match for the walls but that the walls looked like Easter eggs after the Tenant's job. The move-out report variously notes scratches, pencil marks, dirt and drywall damage to the walls of the unit.

The Tenant states that while the Tenants did cause an area of the laminate flooring to be broken that the downstairs flooring already had scratches on it at move-in and that in order to fix the upper floor, it would not be necessary to replace the entire floor but that the area damaged could be patched. The Landlord states that as a mechanical engineer he understands that the upper flooring cannot be fixed by cutting and pasting the area damaged and that the entire upper floor requires replacement in order for the floor to flex and breathe. Further, the Landlord states that the price quoted by the company he uses is reasonable. The Landlord states that the price to buy the flooring necessary to cover the approximate 300 square foot living room at Home Depot would cost \$2.50 per square foot uninstalled. The Landlord states that as a result of his experience he uses this company to do his work as they provide warranties and good prices.

Analysis

Given the undisputed evidence in relation to the spindle, light covers, door stop, and weather stripping, I find that the Landlord has substantiated these damages and entitled to costs in the amount of **\$52.87 plus HST**.

Given the evidence of the move-out report and from the Landlord in relation to the screens, backyard, and freezer, I find that on a balance of probabilities the Landlord has substantiated a claim for these damages. I find however that the amount claimed by the Landlord for cleaning up the items in the yard and cleaning out a freezer as described by the Landlord is twice the amount that I find reasonable. I reduce those costs

accordingly and find that the Landlord is entitled to costs for these items in the amount of **\$126.50 plus HST**.

Given the unreadable move-in report next to the blinds, the Tenant's evidence that all the blinds were damaged at move-in, and the Tenant's agreement that they caused damage to one blind, I find that the Landlord has substantiated a claim for damages to one blind and not seven as claimed and find the Landlord is entitled to costs in the amount of **\$55.86 plus HST**.

Given the evidence of the Tenant and the move-in report, I find that the Landlord has not substantiated a claim to the replacement of light bulbs.

Given the evidence of the Tenant in relation to the work done to repair the marks on the walls, and accepting the Tenant's evidence that the Landlord did nothing to assist with the correct color of paint, I cannot find on a balance of probabilities that the Landlord has substantiated a claim for damages to the walls and I dismiss this part of the Landlord's claim.

Given the finding of damages as set out above, I find that the Landlord is entitled to the costs of carpentry repairs to those damages as set out in the invoice in the amount of **\$150.00 plus HST**.

Given the undisputed evidence that the Tenants damaged the upper floor, noting the move-in report does not note any damage to the lower floor and accepting the reasonableness of the quote to repair the floors, I find that the Landlord has substantiated these damages and is entitled to costs in the amount of **\$870.00 plus HST**.

While I accept the evidence of the Tenant that the doors were not freshly painted at move-in and that chipping and peeling occurred during the tenancy, I also accept the evidence of the Landlord and the move-out report that there were scratches on the

doors from pets. Accordingly, I find that the Landlord has only substantiated that half of the damages arose from the Tenant's pets and find that the other half of the damages were due to normal wear and tear. Accordingly, I find that the Landlord is entitled to half of the costs claimed in relation to the doors in the amount of **\$137.50 plus HST**.

The Landlord has established a total monetary claim in the amount of \$1,559.86. The Landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$1,609.86**. The **security deposit** will be off-set from the award made herein.

Calculation for Monetary Order

Spindle, light covers, door stop, and weather stripping	\$52.87
Screens, backyard, and freezer	126.50
Blinds	55.86
Carpentry repairs	150.00
Flooring	870.00
Doors	137.50
HST (12%)	167.13
Filing Fees for the cost of this application	50.00
Less Security Deposit and interest <i>to date</i>	-800.00
Total Monetary Award	\$809.86

Conclusion

I order that the Landlord retain the **deposit** and interest of \$800.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$809.86**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: June 27, 2011.

Residential Tenancy Branch

