



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit. All parties were represented at the conference call hearing.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that the tenancy began in late in 2000 at which time the tenants paid a \$250.00 security deposit. The current landlord assumed responsibility for the tenancy in 2010.

The landlord seeks recovery of costs to repair and clean the unit. The tenants were represented by A.K. who argued that the landlord had an obligation to inspect the unit when they assumed responsibility for it and that they should have informed the tenants of any required repairs at that time in order to give the tenants opportunity to make those repairs at their own expense.

The landlord seeks to recover \$504.00 as the cost of applying a second coat of paint to the walls and ceilings of the rental unit. The landlord acknowledged that the rental unit would have required repainting in any event, but testified that because the tenants had painted the unit several times, once blue and once yellow, an additional coat of paint was required to cover the tenants' work. The tenant acknowledged having repainted the unit but stated that the landlord did not advise the tenants that the unit would have to be returned to its original colour.

The landlord seeks to recover \$907.20 as the cost of priming and painting the doors and door jambs at the end of the tenancy. The landlord testified that when the tenants had painted the unit, they stained the jambs and doors with paint as well. When the landlord

attempted to remove the paint, it removed the finish from the doors and frames. Although they had previously not required painting because of their finish, the landlord was forced to paint the doors and jambs at a cost of \$907.20.

The landlord seeks to recover \$772.80 as the cost of repairing walls to the rental unit. The landlord stated that the walls were gouged, corners damaged and drywall exposed where stickers had been removed. In the area where hand railings were removed, walls were also damaged. The invoice noted "unnecessary damage to walls including graffiti, fist holes, kick, etc. ... holes, extreme abuse to most of wall areas in unit." The tenant argued that the damage was not as extensive as claimed by the landlord and that since they rented the unit for more than 10 years, the damage could be characterized as reasonable wear and tear.

The landlord seeks \$112.00 as the cost of replacing a handrail removed by the tenants. The landlord testified that the mounting pieces for 2 hand rails in the unit had been broken off and had to be replaced. The tenant acknowledged that they had removed the hand rails while they were moving their belongings from the unit, but insisted that they were not broken. The parties agreed that one of the rails was lying on the floor at the end of the tenancy and the tenant claimed that he had not attempted to reinstall it because he did not have the proper tools.

The landlord seeks \$28.00 as the cost of faceplates for light switches and outlets in the unit. The landlord testified that the faceplates were splattered with paint as the tenants had simply painted around them rather than removing them. The tenant argued that not all of the faceplates were affected and stated that some of them had been replaced during the tenancy at the tenants' expense.

The landlord seeks \$150.00 as the cost of replacing a cracked crisper and drawer in the refrigerator. The landlord testified that the pieces were held together with duct tape and that the refrigerator was approximately 3 years old. The tenant strenuously denied that there was any damage to the refrigerator whatsoever.

The landlord seeks \$320.00 as the cost of cleaning the rental unit at the end of the tenancy. E.J., the party who performed the cleaning, testified that the cupboards were heavily soiled, the windows and window tracks had not been cleaned, nor had the bathroom been cleaned. The claim is for 16 hours of cleaning at a rate of \$20.00 per hour. The tenant testified that 5 people cleaned the unit for 3 days and that additional cleaning should not have been required.

The landlord seeks \$433.16 as half the cost of replacing the 3 year old stove. The landlord testified that the numbers indicating the temperature of the burners had been

removed. The landlord stated that the stove was replaced because there was a concern that future tenants would suffer some injury as a result of being unable to gauge the temperature of the burners. The tenant argued that the erasure of the numbers occurred as a result of daily cooking.

The landlord seeks to recover \$698.01 as the cost of replacing custom made blinds in the rental unit and testified that all of the blinds were damaged beyond repair and that one set of blinds was entirely missing, having been replaced by the tenants. The tenant argued that damage to the blinds was the result of reasonable wear and tear and argued that the landlord had an obligation to inform him that he could not replace blinds.

The landlord seeks to recover \$280.00 as 25% of the cost of replacing the tub surround. The landlord testified that a built in rod designed to hold a washcloth in the tub surround had broken off, allowing water to get behind the surround and damage the wall and floor. The tenant acknowledged that the rod had probably broken off during the tenancy but stated he had not realized it was an issue.

The landlord seeks to recover \$224.00 as the cost of refinishing cabinets in the kitchen and bathroom which were excessively soiled and damaged. The landlord provided an invoice which stated that the cabinets were "soiled far beyond cleaning" and testified that duct tape placed on the cabinets had removed the laminate. The tenant characterized the damage as reasonable wear and tear.

The landlord seeks to recover \$560.00 as part of the cost of replacing the bathroom countertop. The landlord testified that a 1" x 6" piece of the countertop was missing at the end of the tenancy. The tenant testified that the door hit that part of the counter when it opened.

The landlord seeks to recover \$89.60 as the cost of replacing light fixtures in the rental unit. The landlord testified that 4 globes were missing from light fixtures and that it was less expensive to replace the fixtures than the gloves. The landlord further testified that the bathroom lightbar was spattered with paint that could not be removed. The tenant acknowledged that some globes may have been missing.

The landlord also seeks recovery of the \$50.00 filing fee paid to bring his application.

Analysis

The landlord has no obligation to advise the tenants during the tenancy of issues which require repair. The tenants are expected to leave the rental unit in reasonably clean condition and to repair damage which they have caused. If the tenants fail to perform

those repairs, the landlord is entitled to recover the cost of repairs. Residential Tenancy Policy Guideline #1 provides that if tenants paint a unit during the tenancy, they are responsible to return the unit to its original colour.

I find that the landlord is entitled to the costs of repainting the walls with a second coat of paint and to the cost of repainting the doors and door jambs. I do not accept that the damage to the walls may be characterized as reasonable wear and tear. Even though the tenancy was lengthy, the “graffiti and fist holes” as described on the contractor’s invoice are well beyond what should ordinarily be expected. I find that the landlord is entitled to the cost of repairing the walls.

I find that the landlord is also entitled to the cost of installing new handrails. I do not accept that there was no damage as a result of the removal of the handrails. The tenant stated that he removed several handrails in order to move belongings, but replaced most of them. He claimed that he could not replace one handrail because he did not have the proper tools, but it stands to reason that if he had the proper tools to remove the rail, the same tools would serve to re-install it. I prefer the testimony of the landlord to that of the tenant.

I find it more likely than not that the faceplates were spattered with paint and I find that the landlord is entitled to the cost of replacing the faceplates.

I do not accept that the tenants did not damage the refrigerator. The tenant did not dispute that the landlord’s photographs of the refrigerator were authentic and they clearly show pieces being held with duct tape. I find it unlikely that the landlord would attach duct tape to the refrigerator before taking the photographs. I find that the tenants damaged the refrigerator. The life of the refrigerator and its component parts should have been 10 years. The refrigerator was just 3 years old and I find that the tenants deprive the landlord of 70% of the life of the parts which had to be replaced. I award the landlord \$105.00.

Having reviewed the landlord’s photographs and the comments on several of the invoices, it is clear that some areas of the rental unit were not adequately cleaned at the end of the tenancy. The condition inspection report, which the tenants had the opportunity to review at the time the inspection was conducted, indicates that the entire unit required cleaning. Although the tenants claim that they cleaned for 3 days, I find it more likely than not that additional cleaning was required. I find that the landlord is entitled to the costs claimed for cleaning.

Although the landlord believed that the stove could not be used because the numbers indicating the temperature of the burners were missing, I find that this did not warrant

entirely replacing the stove. I accept that the erasure of those numbers is beyond what may be characterized as reasonable wear and tear, but I find that the landlord is entitled to an award to reflect the diminished value of the stove, since the stove could continue to be used for its intended purpose. I award the landlord \$50.00.

The landlord's photographs show that the blinds in the rental unit were damaged. The tenants did not have the right to replace blinds during the tenancy and bore an obligation to reinstall the landlord's blinds at the end of their tenancy. The landlord testified that some blinds were original and some had been replaced during the tenancy. I accept that the landlord is entitled to recover the cost of the blinds, but any award must take into account the depreciated value of the blinds. I find that the award must reflect the actual value, but as it is impossible to determine how old the blinds were, I must arbitrarily determine the amount by which the award should be discounted. I find that a discount of 40% of the \$698.01 claimed will result in adequate compensation. I award the landlord \$418.81.

I find that the tenants must be held responsible for the cost of the new tub surround. I note that the landlord has claimed just 25% of that cost.

I find that the damage to the cabinet doors is beyond what may be characterized as reasonable wear and tear and that the landlord should recover the cost of repairs.

The landlord did not dispute the tenant's allegation that the countertop was hit by the door. In order to be successful in a claim for the cost of repairing the countertop, the landlord must prove that the damage was either deliberately or negligently caused by the tenants. I find that it is very possible that the damage to the countertop was due to a design flaw which allowed the door to strike the countertop when opened. I therefore find insufficient evidence to show that the tenants should be held liable for the cost of repairs and I dismiss the claim.

I am satisfied that the light fixtures needed to be replaced and that the landlord should recover the cost of those replacements.

As the landlord has been substantially successful, I find he is entitled to recover the \$50.00 filing fee paid to bring this application.

In summary, the landlord has proven the following:

Wall and ceiling paint	\$ 907.20
Door and door jamb paint	\$ 504.00
Wall repairs	\$ 772.80
Handrail	\$ 112.00

Light switches	\$ 28.00
Refrigerator parts	\$ 105.00
Cleaning	\$ 320.00
Stove diminished value	\$ 50.00
Blinds	\$ 418.81
Tub surround	\$ 280.00
Cabinet doors	\$ 224.00
Light fixtures	\$ 89.60
Filing fee	\$ 50.00
Total:	\$3,861.41

Conclusion

The landlord has been awarded \$3,861.41. I order the landlord to retain the \$250.00 security deposit and the \$17.30 in interest which has accrued to the date of this judgment in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance of \$3,594.11. This order may be filed in the Small Claims Division of the Provincial 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 23, 2011

Residential Tenancy Branch