



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MND, MNDC, MNR, 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.

Issue(s) to be Decided

This is a request for a monetary order for \$957.00. The applicant is also requesting recovery of the \$50.00 filing fee.

Background and Evidence

The applicants testified that:

- The tenant basically did no cleaning when she moved out of the rental unit and as a result the unit required a significant amount of cleaning.
- The tenant also left some holes in walls from hanging pictures etc. and as a result of those holes had to be repaired.
- There are also some light bulbs that were burned out at the end of the tenancy that had to be replaced.

- The tenant also breached the fixed term tenancy agreement, and therefore they had re-renting costs. The tenant had agreed in the tenancy agreement to pay \$250.00 for these extra costs if she breached the tenancy agreement.
- The tenant had also been given a move in incentive of \$50.00 per month if she agreed to stay for a 12 month period however since the tenant vacated before the end of that 12 month period she is required to re-pay the incentive.

The applicants are therefore requesting an order as follows:

cleaning and repairs	\$157.00
Repayment of move-in incentive	\$550.00
Filing fee	\$50.00
Total	\$1007.00

The applicants further request an order allowing them to keep the full security deposit towards this claim and requested a monetary order be issued for the difference.

The respondent testified that:

- She did leave the rental unit reasonably clean, except that she forgot to clean the oven and stove.
- She also agrees that there were some burned-out light bulbs.
- She disputes any claims for any further cleaning, because the need for further cleaning was a result dirt and dust caused by major repairs that had to be done in the rental unit after a leak was discovered.
- She also disputes the claim for holes in walls, as she believes it's reasonable to be allowed to hang pictures.
- She disputes the claims for the lease breaking fee and the repayment of the move in incentive, because she was forced to move out of her rental unit due to the leak and the need for major repairs.
- Further the leak had caused mould to grow in the rental unit, and once the unit was repaired she requested that the landlords have a mould inspection done before she moved back into the rental unit and the landlord refused to do so.

- Therefore since the landlord could not assure her that the rental unit was safe and met reasonable health standards she decided not to move back into the rental unit and moved elsewhere.
- Further the landlords made no offer of assistance to move her back into the rental unit.

The respondent is therefore willing to pay some money for cleaning the stove and replacing light bulbs, however she believes that the remainder of the claim should be dismissed

Analysis

It is my decision that I will only allow a small portion of the landlords claim, that being the amounts that the tenant has agreed to pay, for oven cleaning, and missing light bulbs, a total of \$17.00.

I will not allow landlords claim for any further cleaning because is my decision that the landlords have not met the burden of proving that the tenant did not leave the rental unit reasonably clean considering the situation involving the major repair.

I also deny any claim for repairs to holes in walls, because it is not unreasonable to expect that the tenants will hang pictures and perhaps even shelving, and unless there is a major damage to the walls this is considered normal wear and tear.

I will not allow the claims for the lease breaking fee, or the move-in incentive, because it is my decision that it was reasonable for the tenant to break the lease considering the situation. The tenant had been forced to move out of the rental unit due to the leak in the unit and the resulting need for major repairs, and it's obvious from the photos provided by the tenant that the leak had also caused some mould growth. Therefore it was not an unreasonable request from the tenant and that the landlord provide her with reassurances that there was no further mould in the rental unit before she moved back

in, and since the landlord refused to do so it is my decision that the tenant is not liable for the lease breaking fee or the repayment of the move-in incentive.

Further since I have only allowed a small portion of the landlords claim, it is my decision that the landlords must bear the cost of the filing fee they paid for their application for dispute resolution.

Conclusion

I have allowed \$17.00 of the landlords claim, and therefore the landlords may retain \$17.00 of the tenants security deposit and have issued an order for the landlords to return to the remaining \$283.00 to the tenant.

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: July 13, 2011.

Residential Tenancy Branch