



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD, FF

Introduction

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

The Landlord applied on May 16, 2011 for:

1. An Order for unpaid rent or utilities - Section 67;
2. A Monetary Order for damage or loss- Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenant applied on May 20, 2011 for:

1. A Monetary Order for compensation or loss - Section 67;
2. An Order for return of all or part of the damage deposit – Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord 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?

Is the Tenant entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on April 15, 2010 and ended on May 1, 2011. Rent in the amount of \$1,400.00 was payable in advance on the first day of each month. On March 30, 2010 the Landlord collected a security deposit from the Tenant in the amount of \$700.00. At

the beginning of the tenancy a move-in inspection was completed and on May 1, 2011, the day the Tenant moved out, a move-out inspection was completed.

The Landlord claims damages to the unit and other losses in the amount of \$1,104.83. The Tenant disputes the damages and claims return of the security deposit. The Landlord states that the damages to the unit were noted after the move-out inspection was completed and during the move-in of the new Tenant. The Tenant states that as there was disagreement during the move-out inspection, the Tenant took pictures of those areas of the unit that he disputed with the Landlord. These pictures were provided along with pictures taken by the Landlord as evidence. The Landlord also supplied a letter from the new tenant concerning the state of the unit at their move-in.

The following itemized the claims and evidence of both Parties:

Garbuerator

The Landlord states that during their move-in the new tenants discovered that the garbuerator was plugged and attempted to clear the drain with a coat hanger. After no success, a plumber was called and a small rolled piece of rusted metal was extracted. The Landlord claims the cost of the repair in the amount of **\$99.65**. The Tenant states that the garbuerator was working fine during the tenancy, has no idea why it was plugged and denies having caused the problem.

Towel Bar/Closet Shelf and door/Laundry door

The Landlord states that one side of the bathroom towel bar was attached lightly to the wall and fell off, the closet shelf and sliding door was damaged and the laundry door was missing. The Landlord states items were repaired at the cost of **\$197.12** and claims the amount of **\$117.60** for the missing laundry door. The Tenant states that at the move-out there were no damages noted to the towel bar. The Tenant notes that in order to view the closet shelf, the sliding door would necessarily have been opened and there was no problem noted at the time with the sliding door. The Tenant states and the Landlord agrees that the laundry door was not present at move-in and had been placed

in the storage room during the tenancy. The Landlord states that the laundry door was not present in the storage room when the new tenants moved in. The Tenant states that the Landlord needs to look on the top of the storage as that is where the Tenant saw it last.

General Cleaning

The Landlord states that the Tenant left the unit unclean, in particular the kitchen, bathroom and windows and that professional cleaners were called in for a cost of **\$313.60** plus a \$40.00 tip. The Tenant states that the stove, oven, and microwave were the only items left unclean. The Tenant supplied pictures of the unit including the bathroom taken during the move-out inspection.

Curtains

The Landlord states that the sheer curtains in the bedroom were not clean and were cleaned by the Landlord for a cost of **\$20.00**. The Tenant states that the curtains were not clean at move-in and were not cleaned for move-out.

Move-out and Move-in Fee

The Landlord states that charges for the move-in and move-out were not paid by the Tenant and claims **\$105.95**. The Tenant states that he was not made aware of any fees associated with his move-in or move-out and that the Landlord did not tell him following the move-in that there was any charge. It is noted that the lease not include reference to the payment of these fees by the Tenant.

Other Losses

The Landlord states that as the Tenant did not move out until May 1, 2011 that the Tenant owes one day of rent and claims the amount of **\$45.15**. The Tenant states that the lease states that he has the unit until May 1, 2011 and that this date was confirmed with the Landlord for the purposes of moving out. The Tenant states that he was out of the unit before 1:00 p.m. on that day.

The Landlord states that because the Tenant moved out a day later than expected, the Landlord was unable to replace the carpet prior to the new tenants move in time date of May 1, 2011. As a result the Landlord states that the hotel costs for the new tenants was paid for by the Landlord as the new tenants refused to stay in the unit until the carpet was in place. The Landlord claims the amount of **\$107.88** for this loss the Landlord argues was the fault of the Tenant.

Analysis

Section 21 of the Regulations provides that a duly completed inspection report is evidence of the condition of the rental property, unless either the landlord or tenant has a preponderance of evidence to the contrary. Given that the Landlord and Tenant conducted a move-out inspection together, noting that the items claimed to be damaged were noticed after the new tenants moved in some or all of their belongings and considering the items claimed were not noted in the move-out report as damaged, I find that the Landlord has not established on a preponderance of evidence damages caused by the Tenant to the garbuerator, towel bar, closet shelf and door, and laundry door. I therefore dismiss this part of the Landlord's application.

Noting the pictures supplied by both parties, some evidence of unclean areas and the agreement by the Tenant that the kitchen appliances required cleaning, I find that the Landlord has substantiated a cleaning cost but find that the amount claimed in relation to the amount of cleaning required is not proportional. I therefore award the Landlord a more reasonable amount for cleaning in the amount of **\$120.00**.

Considering the reasonable and usual cleaning requirement of a tenant, I find that the Landlord has substantiated the claim of **\$20.00** for cleaning the sheer curtains.

As the lease does not contain anything in relation to a move-in or move-out fee, I dismiss this part of the Landlord's application.

Given that the lease agreement sets out May 1, 2011 as the last day of the tenancy, and accepting the evidence of the Landlord that new tenants were approved by the Landlord to move in on the last day of the Tenant's tenancy, I find that the Landlord has not substantiated any unpaid rent for the day of May 1, 2011 and has not suffered a loss in relation to the hotel costs of the new tenants due to the fault of the Tenant and I dismiss this part of the Landlord's application.

As the success of each Party has been limited, I make no award in relation to recovery of either Party's filing fees.

Conclusion

I order that the Landlord retain the amount of \$140.00 from the **deposit** and interest of \$700.00 in satisfaction of the claim and I grant the Tenant an order under Section 67 of the Act for the remaining amount of **\$560.00**. 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: August 29, 2011.

Residential Tenancy Branch