

DECISION

Dispute Codes: *MNSD, MND, FF*

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for a monetary order to recover the costs of repair to the rental unit and for the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of his claim. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Has the landlord established a claim against the security deposit and if so in what amount? Is the landlord entitled to the recovery of the filing fee?

Background and Evidence

The tenancy started on June 01, 2010 and ended on May 31, 2011. The monthly rent was \$2,000.00. Prior to moving in, the tenant paid a security deposit of \$1,000.00 and a pet deposit of \$1,000.00.

The landlord filed a copy of the move in and move out inspection reports. The tenant signed in agreement that there was some damage to the laminate in the entry area and in the dining room. The tenant stated that he had taped rugs to the laminate by the entry doors and when he removed the tape, it caused damage to the laminate. The tenant also agreed that there was water damage caused by a potted plant in the dining room. The tenant stated that his guess was that approximately 30 square feet of laminate would need to be replaced.

The landlord stated that the unit is under three years old. The original laminate that was installed is now not available. The rental unit is open style and therefore it was not possible to replace a portion of the laminate with a different colour or pattern. The landlord is claiming the replacement of approximately 500 square feet which is the entire main floor.

The landlord stated that the floor has not been repaired yet and the unit is up for sale. The landlord has filed an estimate in the amount of \$4,060.00.

The tenant argued that the landlord was supposed to get back to him with an estimate of the cost of repairs to the laminate and he was willing to resolve the issue directly with the landlord. The tenant stated that he was surprised that the landlord applied for arbitration without attempting to contact the tenant to resolve the matter. The tenant also expressed surprise at the amount of the landlord's claim.

The landlord also reported some damage to the drywall. The tenant agreed to cover this damage in the amount of \$168.00.

Analysis

The tenant took responsibility for the damage to the laminate in the entry way and in the dining room. The floor has not been replaced by the landlord and the unit is currently listed for sale. The landlord has filed a quotation for the replacement of the laminate in the amount of \$4,060.00. I find that the landlord has not incurred this expense and therefore is not entitled to reimbursement. However, the damage has reduced the value of the unit and I will award the landlord an arbitrary amount towards this loss of value.

It is impossible to accurately determine the loss of value due to damage caused by the tenant as there is no set formula that can be used in the calculation of an award. In determining the amount of the award, I take into consideration the quantity of damage, the cost incurred to fix it and the evidence to support the cost of repairs.

Residential Tenancy Policy Guideline #16 states that an arbitrator may award "nominal damages" which are a minimal award. These damages may be awarded where there has been no significant loss, but they are an affirmation that there has been an infraction of a legal right. Based on the estimate filed by the landlord, the age of the flooring, the square footage of the damaged area, the presentation of only one estimate, the fact that the landlord has not yet incurred the expense and that the unit is up for sale, I find it appropriate to award the landlord a minimal award of \$500.00 towards the loss of value of the rental unit.

The tenant has agreed to pay \$168.00 towards the cost of drywall repair.

Since the landlord did not take advantage of the tenant's desire to resolve the issue without going to arbitration, I find that the landlord must bear the cost of filing his application.

Overall the landlord has established a claim of \$668.00. I order that the landlord retain this amount from the security deposit and pet deposits of \$2,000.00 in full satisfaction of the claim and return the balance of \$1,332.00 to the tenant within 15 days of receipt of this decision.

Conclusion

I award the landlord \$668.00 on his monetary claim and I order the landlord to return \$1,332.00 to the tenant within 15 days of receipt of this decision.

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: September 14, 2011.

Residential Tenancy Branch