



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background, Evidence and Analysis

The parties agreed that the tenancy began on June 1, 2009 and ended on either December 31, 2010 or on January 1, 2011. The parties further agreed that the tenant paid a \$522.50 security deposit.

I address the landlord's claims and my findings around each as follows.

- [1] **Water damage.** The landlord seeks to recover \$621.00 as the cost of repairing water damage to the rental unit. The landlord testified that the faucet in the tenant's bathtub had pulled away from the wall, permitting water to drain into the wall. The tenant did not report this to the landlord and September 2010 the landlord received a telephone call from the occupant of the suite immediately below the rental unit complaining of water dripping into her suite. The landlord immediately arranged for a plumber to attend at the unit and the plumber discovered that the tenant's faucet was the source of the water ingress. She maintained that had the tenant immediately reported that the faucet had pulled away from the wall, minor repairs could have been done and the cost of the repair would have been significantly less. The tenant testified that she didn't notice that the faucet had pulled away from the wall or realized that water was leaking into the wall. The landlord testified that she spent more than \$800.00 repairing the leak and drying the interior of the wall, but seeks to recover just the labour portion of the repair. In order to be successful in her claim, the landlord must prove that the tenant was aware that there was a water leak and failed to report it in a timely manner. I am not satisfied that even if

the tenant had noticed that the faucet had pulled away from the wall, she would have noticed or believed that there was a leak. The landlord provided no photographs of the faucet and it is not possible to determine whether it would have been obvious to the tenant that there was a leak or potential for a leak. I find that the landlord has not proven this claim and it is dismissed.

- [2] **Pest control.** The landlord seeks to recover \$616.00 as the cost of treating the rental unit for cockroaches. The landlord testified that there were no cockroaches in the rental unit prior to the summer of 2010 when the tenant temporarily installed a used air conditioning unit. The landlord testified that 2 people told her that they saw cockroaches in the air conditioner. She further testified that she asked the tenant to remove it and asked her if there were cockroaches in the air conditioner and that the tenant asserted that it had no cockroaches. The landlord stated that several months after the air conditioner incident, the tenant reported seeing cockroaches. The landlord tried to treat the unit without professional help, but was unable to eliminate the cockroaches so in December 2010 she hired a professional exterminator. At the hearing the tenant argued that the cockroaches may have come from the wall which was cut open by the plumber when the leak was being addressed in September 2010. She denied that there were cockroaches in the air conditioner. In order to be successful in her claim, the landlord must prove that the cockroach infestation was the fault of the tenant. I am not satisfied that this is the case. The landlord claimed that she was told by others that they saw cockroaches in the air conditioner, but she did not produce those persons as witnesses nor provide their sworn statement. I find that the explanations of both the landlord and the tenant as to the origin of the cockroaches are equally plausible. I find that the landlord has not proven on the balance of probabilities that the tenant was the cause of the cockroach infestation and accordingly I dismiss the claim.
- [3] **Light fixtures and light bulbs.** The landlord seeks to recover \$15.67 for the cost of replacing a damaged light fixture and \$20.81 as the cost of replacing burned out light bulbs. The tenant testified that the light fixture in question was not installed on the ceiling when she moved into the unit and she did not install it because she was fearful that her children would damage the fixture. The tenant testified that she did not check the unit at the end of the tenancy to see whether all of the light bulbs were still functioning. I find it unlikely that the light fixture was not installed at the beginning of the tenancy as it was not recorded on the condition inspection report. I further find that it is more likely than not that some of the light bulbs were burned out at the end of the tenancy. I award the landlord \$36.84 as the cost of replacing the fixture and the light bulbs.
- [4] **Wall repair.** The landlord seeks to recover \$8.49 as the cost of purchasing a wall repair kit to repair holes in the walls and \$58.76 as the cost of paint and painting supplies to

paint the unit. The landlord testified that there were several holes in the walls, particularly in the bedrooms, which required repair and that she had to repaint those walls. The landlord provided photographs showing that there was an area on which it appeared paint had been spattered. The photographs also showed that there were several patched areas on the walls. The tenant argued that only two bedrooms had been professionally painted prior to her tenancy, suggesting that she should not be responsible for the cost of painting walls at the end of the tenancy. The tenant is responsible for any damage which goes beyond what may be considered reasonable wear and tear. I am satisfied that the damage to the walls is not reasonable and I find that the landlord should recover the cost of repairing and repainting the walls. I award the landlord \$67.25.

- [5] **Flooring replacement.** The landlord seeks to recover \$306.00 as the cost of labour to replace the flooring in the rental unit. The landlord testified that the tenant severely damaged the carpet in the unit and that it could not be adequately cleaned. The landlord alleged that the tenant had a deer carcass on the living room carpet which stained the carpet and left an offensive odour and that a number of other stains were present which had not previously been there. The tenant denied that the deer carcass was on the carpet but acknowledged that a number of other stains were caused by her or her guests. She claimed that a large black stain had not been evident when she moved in but appeared later after the carpet had dried. It is not necessary for me to determine whether the tenant left a deer carcass on the living room floor, but only whether the damage to the carpet was beyond reasonable wear and tear. I do not accept that the black stain appeared after the carpets had dried when the tenant moved in as it seems reasonable that the tenant would have immediately reported this to the landlord and there is no evidence that she did so. I find that the carpet was excessively stained and that the landlord should recover some of its value. The landlord acknowledged that the carpet was old. As the useful life of carpeting is 10 years, I find it likely that the carpet had likely outlived its useful life and that any award should be nominal. I find that \$50.00 will adequately compensate the landlord and I award her that sum.
- [6] **Garbage removal.** The landlord seeks to recover \$65.76 as part of the cost of removing garbage and the carpet from the rental unit. The landlord provided photographs showing that the tenant had left behind a number of items and some garbage in the rental unit. The tenant testified that she only recalled leaving one garbage bag and two tires. I accept that the landlord's photographs accurately represent what was in and around the rental unit at the end of the tenancy and as the tenant created the need for the carpet to be replaced, I find that she should bear part of the cost of its removal. I award the landlord \$65.76.

- [7] **Cleaning.** The landlord seeks an award for 10 hours of cleaning at a rate of \$18.00 per hour. The landlord claimed that she spent 3 hours cleaning the stove and oven and 7 hours cleaning the rest of the rental unit. The landlord provided photographs of the unit, including the stove and oven. The tenant testified that her mother and several others spent a day cleaning the rental unit. The tenant's witness, C.S., testified that she helped to clean the unit. C.S. stated that she believed the oven had been cleaned, although she did not clean it herself. The tenant suggested that the landlord's photograph of the oven was not taken at the end of her tenancy. The landlord argued that the photographs were taken at the end of the tenancy before cleaning was undertaken. I find it more likely than not that the landlord's photographs were taken after the tenancy and that they accurately represent the condition of the unit at the end of the tenancy. The tenant did not dispute the accuracy of any of the other photographs and neither the tenant nor her witness actually saw anyone cleaning the inside of the oven. It would seem that the photographs show that the stovetop was cleaned but the burner rings were not removed and the area beneath the burners was not cleaned. The interior of the oven had clearly not been cleaned. I find that although some attempt was made to clean the stovetop, the area under the burners and burner rings was not adequately cleaned and the oven was not cleaned at all. Although the landlord insisted that she spent a full 3 hours cleaning the oven, I find it unlikely that cleaning would have taken more than 2 hours. After having reviewed the photographs, I accept that further cleaning was required, which time would have included picking up items which were left behind, both inside and outside the rental unit. I am not satisfied, however, that to return the rental unit to a reasonably clean condition it would have taken 7 hours of cleaning. I accept that the tenant's friends performed some cleaning and I find that no more than 5 hours of additional cleaning would have been required. I note that the tenant was not required to leave the unit spotless, but merely reasonably clean. I award the landlord \$126.00 which represents 2 hours for cleaning the oven and stovetop and 5 hours for cleaning the remainder of the rental unit.
- [8] **January rent.** The landlord seeks to recover \$1,085.00 in rent for the month of January. The landlord testified that she did not receive notice from the tenant that she was vacating the rental unit and that as a result, she was unable to secure a new tenant for the month of January, losing income for that month. The tenant acknowledged that she did not give the landlord notice that she was moving. Section 45 of the Act requires tenants to give landlords one month's notice in order to end a tenancy. I find that the tenant did not comply with this obligation and I find that the landlord lost income for the month of January as a result. I award the landlord \$1,085.00.
- [9] **Utilities.** The landlord seeks to recover unpaid utilities. The tenancy agreement provides that the tenant is responsible to pay 1/3 of the utility payments for the rental

unit. The parties agreed that the tenant paid for utilities each month throughout the tenancy, but that her payments were based on the equalized payments billed to the landlord. The landlord presented evidence showing that the equalized payments did not cover the utility usage for the year and further showed that she was billed for the difference between the equalized payment amount and the usage amount. The tenant questioned why the landlord had not charged her for the difference when she received the first adjustment in March. The landlord responded that she wanted to wait until the full year had finished before charging the tenant the adjustment. The landlord further seeks to recover the tenant's share of utility charges for the month of January. I find that the tenant was contractually obligated to pay for 1/3 of the utility costs. She enjoyed a considerable period in which because of the equalized payment plan, she paid less than what she actually owed but this does not preclude the landlord from pursuing her for the actual usage amount. I further find that the tenant had a contractual obligation to pay 1/3 of the costs in January regardless of whether she resided in the unit during that month. I award the landlord \$363.97.

[10] **Filing fee.** The landlord seeks to recover the \$50.00 paid to bring this application. I find that the landlord is entitled to recover the fee and I award the landlord \$50.00.

Conclusion

In summary, the landlord has been successful in the following claims:

Light fixtures and bulbs	\$ 36.84
Wall repair	\$ 67.25
Flooring replacement	\$ 50.00
Garbage removal	\$ 65.76
Cleaning	\$ 126.00
Rent	\$ 1,085.00
Utilities	\$ 363.97
Filing fee	\$ 50.00
Total:	\$1,844.82

The landlord has established a claim for \$1,844.82. I order that the landlord retain the \$522.50 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,322.32. 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: September 15, 2011

Residential Tenancy Branch