



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD, FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties.

The Landlords filed their claim requesting monetary orders for the Tenants allegedly damaging the rental unit, for compensation for loss or money owed under the tenancy agreement or the Act, to retain the security deposit in partial satisfaction of the claim, and to recover the filing fee for the Application.

The Tenants have filed for the return of double their security deposit and to recover the filing fee for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Are the Landlords entitled to the monetary orders sought?

Are the Tenants entitled to return of double the security deposit?

Background and Evidence

The tenancy began on May 1, 2010, with the parties entering into a written, standard form tenancy agreement. The term of the tenancy was for one year, with it reverting to a month to month tenancy at the end of the first year. The parties agreed the rent was to be \$1,950.00 per month, and the Tenants paid the Landlords a security deposit of \$975.00 on May 1, 2010.

The Tenants ran into some financial problems and requested that the Landlords agree to end the tenancy agreement. The Tenants gave the Landlords a written Notice to End Tenancy with an effective date of October 31, 2010. The Landlords accepted the end of

the tenancy. The Tenants found other renters for the Landlords. The Tenants vacated the rental unit on or about November 1, 2010.

The Landlords provided in evidence copies of the incoming and outgoing condition inspection reports, as well as photographs, estimates for repairs and calculations of amounts owed.

The Landlords claim the Tenants damaged a carpet in the master bedroom with burn marks, lipstick or nail polish remover stains, and various dark stains in the middle of the carpet. The Landlords request \$971.10 to replace the carpets. The Landlords testified that the carpet was 17 years old when the Tenants moved in.

The Landlords claim the Tenants dented the walls, in various locations in the rental unit, with dents and scrapes when they moved in or out, or, as a result of living in the rental unit. The Landlords claim \$200.00 for repairs, patching and painting.

The Landlords claim the Tenants chipped a post at the top of stairs and request \$30.00 for these repairs.

The Landlords claim that the Tenants broke a window latch off and it will cost \$100.00 to replace this.

The Landlords claim the Tenants lost a retainer clip for the venetian blinds and claim \$10.00 for this.

The Landlords claim the Tenants damaged venetian blinds in the master bedroom and claim \$100.00 for this.

The Landlords claim an extra \$65.00 in rent for the extra day the Tenants were in the rental unit.

The Landlords had claimed \$900.00 for their hourly rate to attend to the rental unit to conduct the condition inspection reports and for preparing for this hearing. I explained to the Landlords during the hearing that this was a cost of them doing business and was not claimable under the Act. Therefore, I order that this portion of the claim is dismissed.

In reply to the Landlords' claims, the Tenants testified that they had discussed with the Landlords at the start of the tenancy the condition of the carpet. They testified that the Landlords had promised them they would replace the carpet due to its age, however, the Landlords did not replace the carpets. Nevertheless, the Tenants testified that they kept the carpets very clean and paid for professional cleaning at the end of the tenancy. The Tenants acknowledged that one of the carpets had been damaged due to a school project of one of the Tenant's children.

The Tenants agree they moved out late, but explained this was because they were doing the responsible thing. That is, they were cleaning the rental unit before they moved out.

The Tenants also agreed there may have been damage to the walls, with dents here and there, caused by the moving.

The Tenants deny the other claims of the Landlords.

The Tenants testified that they sent the Landlords their forwarding address in writing, to return the security deposit to, on July 27, 2011. The Landlords filed their claim against the security deposit on August 3, 2011.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Landlords' Claims

I find that the Tenants breached section 37 of the Act by failing to return the rental unit to the Landlords in an undamaged state.

I find the Tenants caused damage to the walls and allow the Landlords' claim for \$200.00 for repairs, patching and painting. I find the Tenants chipped a post at the top of stairs and award \$30.00 for these repairs, and that the Tenants broke a window latch and it will cost \$100.00 to replace this.

I find the Tenants lost a retainer clip for the venetian blinds and allow \$10.00 for this, and the Tenants damaged venetian blinds in the master bedroom and I allow \$100.00 for this.

I also find the Tenants over stayed in the rental unit for one day and allow the Landlords \$65.00 in rent for this extra day.

I dismiss the Landlords' claim for damage to the carpet in the master bedroom. The Landlords testified that the carpet was 17 years old when the Tenants moved in and under policy guideline 37 to the Act the life expectancy of a carpet is 10 years. I find the carpet had passed its useful life expectancy and dismiss this portion of the Landlords' claims.

Therefore, I find that the Landlords have established a total monetary claim of **\$450.00**, comprised of \$415.00 in amounts described above, plus \$35.00 towards their filing fee for the Application. I have reduced their filing fee for the Application due to their reduced success in this claim.

The Tenants' Claims

Under section 38 of the Act, the Landlords had to file their Application to claim against the security deposit within 15 days of the later of the end of the tenancy, or receipt of the Tenants forwarding address in writing; otherwise the Tenants would be entitled to the return of double their security deposit.

As the Tenants sent the Landlords their forwarding address in writing on July 27, 2011, and the Landlords filed their claim on August 3, 2011, I find that the Landlords did file their claim against the security deposit within 15 days of receipt of the Tenants' forwarding address. Therefore, the Tenants are not entitled to return of double the security deposit. As they have not been successful, I decline to award them their filing fee for the Application.

I order that the Landlords may retain \$450.00 from the security deposit held in the amount of \$975.00, in full satisfaction of the Landlords' claims, and I order the Landlords to return to the Tenants the balance of the security deposit in the amount of **\$525.00**.

Pursuant to the policy guidelines of the Act, I grant and issue the Tenants a monetary order for \$525.00. If the Landlords fail to pay this amount to the Tenants, the order may be enforced in the Provincial 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: November 08, 2011.

Residential Tenancy Branch