



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The parties agreed that on October 1, 2011, the tenant gave the landlord who attended this hearing (the landlord) his written notice to end this tenancy on October 31, 2011, when the tenant vacated this rental unit. The tenant confirmed that he received a copy of the landlords' dispute resolution hearing package sent by the landlord by registered mail on December 21, 2011. I am satisfied that the parties served one another with these documents and that the landlord served her written evidence to the tenant in accordance with the *Act*. The tenant did not submit any written evidence.

Issues(s) to be Decided

Are the landlords entitled to a monetary award for damage or loss arising out of this tenancy? Are the landlords entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Are the landlords entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This tenancy commenced as a one-year fixed term tenancy on May 15, 2004. At the expiration of the initial term on May 31, 2005, the tenancy continued as a periodic tenancy until the tenant vacated on October 31, 2011. Monthly rent by the end of this tenancy was set at \$1,087.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$480.00 security deposit, paid on April 14, 2004.

The landlord entered into written evidence a copy of the joint move-in condition inspection report of May 14, 2004 and the joint move-out condition inspection report of October 31, 2011.

The landlords' application for a monetary award of \$1,657.01 included claims for the following damage that they attributed to the tenant and that they maintained extended beyond the normal wear and tear that could be expected over the period of this tenancy:

Item	Amount
Carpet Cleaning (2.5 hours)	\$112.00
Cleaning (20 hours @ \$35.00 per hour = \$700.00)	700.00
Cleaning Supplies	30.00
Standard & Appliance Light Bulbs - 6	10.00
Appliance Light Bulbs - 2	8.00
Bathroom Light Fixture	19.00
Toilet Seat	27.00
Carpet Replacement (1/2 of the \$2,396.82 = \$1,198.00)	1,198.00
Filing Fee	50.00
Less Security Deposit (\$480.00 + \$16.99 Interest = \$496.99)	-496.99
Total Monetary Award Requested	\$1,657.01

In the landlord's December 21, 2011 letter entered into written evidence, the landlord maintained that "the carpets were exceedingly stained and beyond reasonable wear and tear and that the Tenant should bear part of the cost of the carpet replacement."

The tenant did not dispute the landlord's claim that some cleaning was required at the end of this tenancy. He claimed that some of the damage claimed by the landlord was for reasonable wear and tear that would be expected during the course of this lengthy tenancy. He also maintained that the floors had not been replaced for many years and questioned why he should be held responsible for the landlords' replacement of the carpets.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, a Dispute Resolution Officer (DRO) may determine the amount of that damage or loss

and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlords to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

During the hearing, the tenant did not dispute the monetary award amounts claimed by the landlords for replacement of the light bulbs, the bathroom light fixture, the replacement of the toilet seat, the purchase of cleaning supplies and for carpet cleaning. Based on this undisputed evidence, I find that the landlords are entitled to a monetary award in the amount claimed for each of these items.

The landlords' claim for cleaning and for carpet replacement is in dispute by the parties.

Based on my consideration of the written and photographic evidence submitted by the landlords and the oral testimony of the parties, I find that the landlords have demonstrated to the extent necessary that the level of cleaning required at the end of this tenancy did extend beyond reasonable wear and tear that could be expected for a rental unit of this age. For this reason, I find that the landlords are entitled to a monetary award for the 20 hours of cleaning claimed in their application. However, I find that the hourly rate requested by the landlords for cleaning has not been adequately substantiated and is higher than would normally be charged. I find that the landlords are entitled to a monetary award for 20 hours of cleaning at an hourly rate of \$20.00 per hour. This results in a monetary award for cleaning of \$400.00.

Residential Tenancy Branch Policy Guideline #37 provides guidance to Dispute Resolution Officers regarding the useful life of various items within a rental unit. This Policy Guideline establishes that the useful life of carpeting in a rental unit is set at 10 years. At the hearing, the landlord testified that there had been a full renovation to the rental unit (including the installation of new carpets) approximately four years before the tenant moved into the rental unit in 2004. Based on this evidence, the carpet in the rental unit was at least 11 ½ years old when this tenancy ended. Since this carpet was beyond its normal useful life by the end of this tenancy, I find that the landlords bear the responsibility of the cost of replacing the carpets in this rental unit. For this reason, I dismiss the landlords' application for a monetary award for replacement of the carpets without leave to reapply.

As the landlords have been partially successful in this application, I allow them to recover \$25.00 from their filing fee from the tenant.

I allow the landlords to retain the tenant's security deposit plus interest in partial satisfaction of the monetary award issued in this decision.

Conclusion

I issue a monetary award in the landlords' favour in the following terms which allows the landlords to recover damage arising out of this tenancy and part of the landlords' filing fee and to retain the tenant's security deposit in partial satisfaction of the monetary award issued in this decision:

Item	Amount
Carpet Cleaning (2.5 hours)	\$112.00
Cleaning (20 hours @ \$20.00 per hour = \$400.00)	400.00
Cleaning Supplies	30.00
Standard & Appliance Light Bulbs - 6	10.00
Appliance Light Bulbs - 2	8.00
Bathroom Light Fixture	19.00
Toilet Seat	27.00
Filing Fee	25.00
Less Security Deposit plus Interest (\$480.00 + \$17.00 = \$497.00)	-497.00
Total Monetary Order	\$134.00

The landlords are provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: March 06, 2012

Residential Tenancy Branch