



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, FF

Introduction

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

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

The Landlord and Tenants 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?

Background and Evidence

The tenancy started on July 1, 2011 and ended on February 28, 2012. At the onset of the tenancy, the landlord collected \$1,025.00 as the security deposit. The Parties conducted both a move-in and move-out inspection however the Tenants disagreed with the move-out inspection and refused to sign the report.

The Landlord states that the Tenants failed to clean the unit and left damages at move-out. The Parties agree that the blinds and curtains were not cleaned at the end of the tenancy. The Landlord states that they were clean at move-in, the blinds having been cleaned by hand by the Landlord and the curtains being new, and that at the end of the tenancy, since the Tenants did not clean the curtains, the Landlord had them professionally cleaned. The Landlord argues that the Tenants agreed in the addendum

to the tenancy agreement that if the curtains were not cleaned at move-out the Landlord would have them professionally cleaned at the cost of the Tenants. The Landlord claims the total amount of \$364.74 and supplied receipts for these costs. The Tenants state that the blinds and curtains were clean, the tenancy was only eight months long, no smoking or pets were in the unit during the tenancy and that the Landlord did not provide any photos of the blinds and curtains showing them to be unclean. Further, the Tenants state that the blinds are old and argue that the cost of professionally cleaning them is greater than the replacement cost.

The Landlord states that the Tenants left nail holes and one damaged area in the walls of the unit and claims the total amount of \$170.43 for the repair and painting of the walls. The Tenants state that the only nail holes were from picture hanging nails and that the Landlord's requirement that the Tenants putty, sand and repaint the walls is unreasonable and excessive. The Tenants state that the one damaged area was there at move-in and not noticed by either Party at move-in. The Tenant states that this area shows some reconstruction and paint that the Tenants never had access to during the tenancy.

The Landlord states that the Tenants left the unit with scratches or gouges on the clear coating of the hardwood floors and that since these marks were not there at move-in, only the Tenants could have caused these marks. The Landlord states that the floors are approximately 12 years old and that prior to the Tenants moving in, the unit was only occupied for the 12 years by the Landlord. The Landlord's Witness and boyfriend confirmed that there were no marks on the hardwood floor prior to the Tenants moving into the unit. The Tenants state that when the landlord first discussed the floors at move-out, they were referred to as scratches and now as gouges. The Tenant states that the marks on the floor were not an issue for the Landlord at the time. The Tenants state that they have no idea how these marks occurred, that there is no damage to the wood and that it would be common to expect such minor marks on the surface of hardwood floors. The Tenants further state that during the tenancy an area rug covered

the area of the wood floor claimed as damaged and that all their furniture had felt covers on the areas touching the floor.

The Landlord states that the Tenants failed to clean the back filters of the microwave that these filters had grease on them and that the Landlord cleaned them herself by hand. The Landlord states that she did enquire about professional cleaning of the filters and was told that such was unnecessary given that they could be easily cleaned. The Landlord claims \$30.00 for her time in cleaning the filters.

The Tenant does not dispute the Landlord's claim of \$21.16 for the replacement of two keys.

Analysis

Section 37 of the Act provides that when a tenancy vacates a rental unit, the tenant must leave the unit reasonably clean and undamaged except for reasonable wear and tear. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party and that costs for the damage or loss have been incurred or established.

Given the undisputed evidence of the Parties, I find that the blinds and curtains were not cleaned by the Tenants at move-out. Although the Landlord has not provided photos of the curtains to show any dirt, it is reasonable to expect that the curtains would be cleaned by the Tenants at move-out. Although the Landlord argues that the Tenants are responsible for the professional cleaning costs given the tenancy agreement, I find that as the Landlord did not have the blinds and curtain professionally cleaned at move-in, the term requiring the Tenants to pay for professional cleaning to be unconscionable and therefore does not apply in this case. Given that the Tenants are required to leave

the unit window coverings clean and did not, I find that Landlord has substantiated a reasonable cost for cleaning in the amount of **\$100.00**.

Considering that the photos of the damages to the walls provide no visual determination of the size of the holes, given the Tenants evidence that only picture nails were used to hang their pictures during the tenancy and considering that the Landlord did not dispute this evidence, I find that the nails holes are minor and reflect normal wear and tear that is to be expected during an rental period. I also accept the reasoning of the Tenants in relation to the small area of damage to one wall and find that the Landlord has not substantiated that the Tenants caused this damage. I therefore dismiss this part of the Landlord's claim.

Given the evidence of the Landlord that the floor was not damages prior to move-in and considering the move-in report of no damages, I find that the Tenants did cause some damage to the flooring. However, given the age of the flooring and considering reasonable wear and tear to a hardwood floor, I find that the Landlord is not entitled to the amount claimed but to a reasonable and nominal amount to compensate the Landlord for some diminished value to the flooring. Accordingly, I find that the Landlord is entitled to **\$200.00** for compensation.

Although the Landlord claims an amount for her time in cleaning the filters of the dishwasher, considering that the photos do not show any evidence of dirt, and considering that these filters can be easily cleaned, I find that the Landlord's claim for reimbursement to be unreasonable and dismiss this claim.

Based on the undisputed evidence of the Parties, I find that the Landlord has substantiated the amount of **\$21.16** for the replacement of two keys.

As the success of the Landlord's claim has been significantly limited, I decline to award recovery of the filing fee. The total entitlement of the Landlord is **\$321.16**. Setting this

amount off the security deposit plus interest of \$1,025.00 leaves **\$703.84** owing to the Tenants. I order the Landlord to pay the Tenants this remaining amount forthwith.

Conclusion

I Order the Landlord to retain the amount of \$321.16 from the security deposit plus interest of \$1,025.00 in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for the amount of **\$703.84**. 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: May 15, 2012.

Residential Tenancy Branch