Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   MNSD, MND, 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 the security deposit - Section 38; and

3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant 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 began on April 1, 2011 and ended on March 31, 2012. Rent in the amount of $1,200.00 was payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of $600.00. A move-in inspection was conducted by the Parties on April 1, 2010 and a move-out inspection was conducted on March 31, 2012. The Tenant states that she did not sign the move-out report as the move-in report was not present at the time of the inspection.

The Landlord states that the Tenant damaged the unit and makes claims as follows with estimates provided to support the claims:

- $139.85 to replace damaged living room drapes and valances;

- $30.00 to replace a broken kitchen globe;
- $164.20 to replace a damaged bedroom door;
- $69.98 to replace a chipped bathroom basin; and
- $30.00 labour to repair living room wall;
- $90.00 labour to replace the bedroom door;
- $30.00 labour to replace the bathroom basin.

The Landlord does not claim labour for any other damages.

The Landlord states that during the tenancy the bedroom door was damaged and replaced by the Tenant but that the replacement door is different and was not hung properly. The Tenant does not dispute that the door was not hung properly or was not painted but states that the door was replaced by the same door as originally in place. The Landlord states that the door replaced by the Tenant is extremely similar. The Tenant submits that the amount of $100.00 would be a reasonable replacement cost and provides an estimate for this amount.

The Landlord states that at move-out the Tenant caused a scrape to the living room wall that requires repair. The Tenant states that all the walls of the unit were damaged at move-in and that the scrape was small in comparison to the other marks. The Landlord states that most of the walls of the unit are in the process of being painted.

The Tenant states that the drapes were damaged by the sun over the term of the tenancy and that some damage was caused by the pet. The Tenant does not dispute responsibility for half the cost of replacing the drapes. The Tenant does not dispute the claim for the globe. The Tenant disputes a chip to the bathroom sink and states that the sink had a hairline crack that could have been caused by pressure, temperature or stress. The Tenant denies causing the crack.

It is noted that the move-out condition report notes the damages to the drapes, globe and wall. It notes a crack to the sink but no chip. The Landlord provided a photo of the sink.

Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the unit 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 in relation to the globe, I find that the Landlord has substantiated a cost of **$30.00** for its replacement. Accepting that the sheer curtains would be faded by the sun as reasonable wear and tear and considering the Tenant does not dispute causing some damage, I find that the Landlord has substantiated a cost of **$70.00.** Accepting that the replaced door is extremely similar to the original door and only requires re-hanging and painting, I dismiss the Landlord's claim for a new door and find that the Landlord has substantiated a cost of **$90.00** for the labour to re-hang and paint the door. As the photo provided does not show a chip but does show a crack in the bathroom sink and considering the Tenant's suggestions for other causes for the crack, I find on a balance of probabilities that the Landlord has not substantiated that the Tenant caused a chip or the crack and I dismiss the costs in relation to this claim. Although the move-out inspection report notes scuff marks given the lack of photo evidence to substantiate the magnitude of those scuffs in relation to other marks on the wall and considering that the Landlord has or will be repainting the entire wall, more likely due to the magnitude of other marks not caused by the Tenant, I dismiss the claim in relation to the wall.

As the Landlord has been largely unsuccessful with its claim, I decline to award recovery of the filing fee. I order the Landlord to retain the amount of **$190.00** from the security deposit of **$600.00** and to return the remaining amount of **$410.00** to the Tenant forthwith.

Conclusion

I Order the Landlord to retain the amount of **$190.00** from the security deposit of $600.00 in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for the amount of **$410.00**. 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: June 19, 2012.

Residential Tenancy Branch