



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Code MND, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for damages to the unit and an order to retain the security deposit in partial satisfaction of the claim.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on May 17, 2012, Canada post tracking numbers were provided as evidence of service, the tenants did not appear.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenants have been duly served in accordance with the Act.

The landlord's agent gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for damages?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on December 4, 2008. Current rent in the amount of \$745.00 was payable on the first of each month. A security deposit of \$365.00 was paid by the tenants. The landlord has returned \$100.86 of the security deposit to the tenants and currently holds in trust a balance of \$264.60 which includes interest. The tenancy ended on April 30, 2012.

The landlord's agent testified the parties participated in a move-in inspection and a move-out inspection. Filed in evidence is a copy of the inspection report.

The landlord claims as follows:

a.	Carpet cleaning	\$ 64.00
c.	Drape cleaning	\$ 20.00
d.	Lock replacement	\$ 77.00

e.	Filing fee	\$ 50.00
	Total claimed	\$ 301.00

The landlord's agent testified the tenant did not shampoo the carpets at the end of the tenancy. The landlord seeks to recover the cost of having the carpets cleaned in the amount of \$64.00. Filed in evidence is a receipt for carpet cleaning.

The landlord's agent testified after the move-out inspection was completed they notice that a few things needed additional cleaning. The landlord seeks to recover \$90.00 in additional cleaning costs.

The landlord's agent testified after the move-out inspection was completed they notice that the drapes need additional cleaning. The landlord seeks to recover \$20.00 for additional drape cleaning.

The landlord's agent testified that the tenant did not return the keys to the rental unit and it cost \$77.00 to have the locks changed. Filed in evidence is a copy of the receipt.

Analysis

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

To prove a loss and have one party pay for the loss requires the other party to prove four different elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act or agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the Applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

In the circumstances before me the landlord has the burden of proving his claim.

Carpet cleaning

Under the Policy guidelines, the tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year.

In this case, the tenancy exceeded one year. In the move-out inspection the tenants acknowledged that the carpets were not steam cleaned at the end of tenancy. I find the

tenants are in breach of the Act and as a result of the breach the landlord suffered a loss. Therefore, I grant the landlord compensation for cleaning the carpets in the amount of **\$64.00**.

General suite cleaning/drape cleaning

Section 21 of the Residential Tenancy Regulation states: Evidentiary weight of a condition inspection report

In dispute resolution proceedings, a condition inspection report completed in accordance with this Part is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary

In this case, the landlord has claimed for further cleaning of the rental unit and addition cleaning for the drapes. However, written in the move-out inspection it states "Everything is in excellent condition, normal wear and tear with kitchen tops, counter tops bathroom tops. Tenant cleaned everything but the carpets. First time for this treat. Drapes were even cleaned." [Reproduced as written.]

Section 37 of the Residential Tenancy Act states: Leaving the rental unit at the end of a tenancy

- 37 (2) When a tenant vacates a rental unit, the tenant must
- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and
 - (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property

I find the landlord has failed to provide a preponderance of evidence to the contrary that the tenants have breached section 37(2)(a) of the Act and should be responsible for additional cost. The move-out inspection states everything was left in an excellent condition, except for the carpets. The tenant is only responsible to leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Therefore, the landlord's claim for additional cleaning of the rental unit and drapes is dismissed.

Lock replacement

The evidence of the landlord was the tenants did not return the keys to the rental unit at the end of tenancy. I find the tenants have breach Section 37(2)(b) of the Act and the landlord suffered a loss. Therefore, I grant the landlord compensation for having the lock changed in the amount of **\$77.00**.

I find that the landlord has established a total monetary claim of **\$191.00** comprised of the above described amounts and the \$50.00 fee paid for this application.

I order that the landlord retain the amount of \$191.00 from the \$264.60 security deposit and interest currently held in trust in full satisfaction of the claim. The landlord is to return to the tenants the balance of \$73.60. Should the landlord fail to return the balance of the tenant security deposit to the tenants, I grant the tenants a monetary order in the amount of **\$73.60**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order and may keep a portion of the security deposit in full satisfaction of the claim and the tenants are granted an order for the balance of their security deposit.

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: July 16, 2012.

Residential Tenancy Branch