



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit. Both parties participated in the conference call hearing.

The parties had been involved in a previous dispute resolution hearing in which the tenant had applied for the return of double his security deposit. In a decision rendered on January 3, 2013, the Arbitrator found that the tenant had not proven that he had provided his forwarding address in writing to the landlord and dismissed his application. As I am bound by the finding that the tenant had not provided his forwarding address to the landlord prior to December 7, the date on which the landlord filed her application for dispute resolution, I have not considered awarding the tenant double his security deposit.

At the hearing the parties agreed that the landlord had misspelled the tenant's name on her application for dispute resolution. The correct spelling of the tenant's name is reflected in the style of cause. The spelling of the landlord's husband's middle name was unclear on the application and at the hearing, the landlord confirmed what she believed to be the correct spelling of that name, which is also reflected in the style of cause.

I note that the parties both spent some time testifying about issues which they believed were important but were not relevant to the claim before me. In the decision below, I have addressed only that testimony and evidence which is directly relevant.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that the tenancy began on August 1, 2009 at which time a \$550.00 security deposit was paid and that the tenancy ended on July 23, 2012.

The parties agreed that during the tenancy, the tenant applied duct tape to the drywall around the bedroom window and that when the tape was removed, it removed part of the drywall which then required repainting. The landlord provided a copy of a receipt showing that she spent \$66.50 on paint supplies to repaint the drywall and seeks to recover that cost. The tenant testified that he believes the claim to be excessive as he believes that the landlord could have secured supplies at a reduced cost and that she purchased more paint than was necessary.

The parties agreed that the tenant failed to return one fob. The landlord claimed that an addendum written on the back of the tenancy agreement specifically provides that the cost for replacing a fob is \$25.00. The landlord provided a receipt showing that she paid \$50.00 to the strata to replace the fob. The tenant did not dispute that there was an addendum to the tenancy agreement which identifies \$25.00 as the cost of replacing a fob, but argued that he paid a \$50.00 fob deposit, which the landlord retained. The landlord denied having received a fob deposit.

The landlord testified that on the last day of the tenancy when the parties conducted an inspection of the unit, the tenant had just completed cleaning the carpet, which was still damp. The landlord claimed that after the carpet dried, she found that it was not adequately cleaned and she provided evidence showing that she retained a carpet cleaning professional to clean the carpet at a cost of \$164.64 which she seeks to recover. The landlord provided photographs showing some minor discolouration on several areas of the carpet. The landlord testified that the tenancy agreement provides that the tenant is required to have the carpet professionally cleaned at the end of the tenancy. The tenant insisted that the carpet was sufficiently cleaned through his use of a rented steam cleaner.

The parties agreed that the bathroom cabinet doors had sustained water damage during the tenancy. The landlord testified that in order to reduce costs, she replaced the veneer with a ¾" veneer rather than the ¼" veneer which had been damaged despite the fact that it was not as cosmetically attractive. The landlord presented an invoice showing that the repairs cost \$168.00. The tenant testified that he believed the damage to the cabinets could be attributed to normal wear and tear and further stated that he believed that the repair costs could have been reduced.

The landlord also seeks to recover an estimated \$222.88 as the cost of repairing a gouge in the bathtub. The tenant denied having caused any damage to the bathtub.

The landlord seeks to recover a \$50.00 moving fee which was charged to her by the Strata when the tenant moved out of the unit. The landlord provided an invoice showing that she paid \$100.00 and explained that \$50.00 of that invoice represented a move out fee while the remainder represented what was charged for the new tenants moving in. Despite the landlord's explanation of the invoice and confirmation that she was seeking just one half of the invoice, the tenant argued that by presenting the invoice, the landlord was attempting to perpetrate a fraud. The tenant testified that he had no idea that move in or move out fees were charged.

There was some discussion at the hearing about the time the landlord invested in cleaning the rental unit. The tenant agreed that some additional cleaning was required and stated that he believed that cleaning costs should total no more than \$150.00. The landlord insisted that the value of the time she spent cleaning was much higher.

The landlord included invoices showing costs incurred for reproducing photographs, sending documents via registered mail and photocopying. The landlord also seeks to recover the filing fee paid to bring her application.

Analysis

I find that the tenant damaged the drywall around the bedroom window and is responsible for the costs of repairing that drywall. The landlord provided a receipt which showed her actual expenses and as the tenant provided no evidence to corroborate his claim that the landlord had overpaid for those supplies, I find that the landlord has proven that the expenses are reasonable. I award the landlord \$66.50.

As the tenant acknowledged that he failed to return one fob and as there appeared to be no dispute that there was an addendum to the tenancy agreement whereby the tenant agreed to pay \$25.00 to replace an unreturned fob, I find that the tenant is liable for \$25.00, which I find to be the upper limit of what the landlord can claim for this expense. I award the landlord \$25.00.

The tenancy agreement provides that the tenant must have the carpet professionally cleaned if they were professionally cleaned prior to the beginning of the tenancy. As the landlord provided no evidence to show that the carpet had been professionally cleaned when the tenancy began in 2009, I find that the tenant was not obligated to have the carpet professionally cleaned. While there was some soiling left behind, I find that

overall, the carpet was in reasonably clean condition and for that reason I dismiss this part of the landlord's claim.

I find that the water damage sustained in the bathroom cannot be attributed to reasonable wear and tear and I find that the tenant must be held responsible for the cost of repairs. Again, the landlord provided a receipt which showed the actual cost of the repair and as the tenant provided no evidence to corroborate his claim that the landlord had overpaid for the repair, I find that the landlord has proven that the claim is reasonable. I award the landlord \$168.00.

In the absence of photographs or a notation on the condition inspection report, I find that the landlord has not proven that the bathtub sustained any damage. I dismiss this part of the landlord's claim.

With respect to the claim for recovery of the move out fee imposed by the Strata and with respect to a number of other issues, the tenant repeatedly accused the landlord of lying and asked me to question her credibility. Nothing in the landlord's testimony or evidence led me to believe that the landlord was not credible and I have accepted her evidence and testimony as credible. In particular, when discussing the move out fee, the landlord was forthright and ensured that neither the tenant nor I had the impression that the tenant was responsible for the entire bill. Addressing that claim, the tenancy agreement clearly provides that the tenant was responsible to sign a "Form K" in which he agreed to comply with the Strata bylaws. As the charge was levied by the Strata against the rental unit, I find that the fee relates directly to the bylaws and I find that the tenant is liable for the move out fee. I award the landlord \$50.00.

When filing a claim in an adversarial process such as this, one is expected to quantify the specifics of the claim so the respondent has a clear picture of the magnitude of the claim against him. In her application for dispute resolution, the landlord did not attach a specific dollar amount to the cost of cleaning, although the total amount she claimed was significantly higher than the total of the invoices she submitted. Because the tenant acknowledged during the hearing that he owed the landlord something for the cost of cleaning, I find it just to award to the landlord the amount that the tenant agreed to pay. In limiting the award to the amount that the tenant believes to be reasonable, I find that the tenant cannot have been prejudiced by not having prior notice of the exact dollar figure claimed. I award the landlord \$150.00.

I dismiss the claim to recover the costs of reproducing photographs, sending documents via registered mail and photocopying as the only litigation related expense I am empowered under the Act to award is the cost of the filing fee. As the landlord has

been substantially successful in her claim, I find that she should recover the cost of the filing fee and I award her \$50.00.

Conclusion

In summary, the landlord has been successful as follows.

Drywall repair	\$ 66.50
Fob replacement	\$ 25.00
Bathroom cabinet repair	\$168.00
Move out fee	\$ 50.00
Cleaning costs	\$150.00
Filing fee	\$ 50.00
Total:	\$509.50

The landlord currently holds a security deposit of \$487.50. I order her to retain that deposit, leaving a balance of \$22.00 owing by the tenant to the landlord. Applying the *de minimis* doctrine, I find the balance to be so insignificant that it does not warrant the award of a monetary order.

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 1, 2013

Residential Tenancy Branch

