



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with an application by the landlord seeking a monetary order for compensation for loss or damage suffered under the Act, the tenancy agreement or the regulations. Both parties participated in the conference call hearing. Both parties gave affirmed evidence. This matter began on February 7, 2013 and more time was required to complete the matter. The matter was adjourned to today's date where ample time and opportunity was afforded to both parties and the matter concluded.

Issues to be Decided

Is the landlord entitled to a monetary order?

Background and Evidence & Analysis

The tenancy began on or about July 22, 2010. Rent in the amount of \$1100.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$560.00. A condition inspection report was conducted upon move in but not at move out.

The above facts are not in dispute.

The landlord is seeking a monetary order of \$2081.78 for costs incurred to clean and repair the unit after the tenants vacated.

Both parties provided extensive documentary evidence. All parties' testimonies and evidence have been considered in making a decision. As this matter was conducted

over two separate days and almost 3 hours of hearing time, all issues, evidence and arguments were considered but for the sake of clarity and brevity this decision will not repeat each and every item, instead it will focus directly on the claims as made in each parties application.

As explained to the parties during the hearing, the onus or burden of proof is on the party making the claim. In this case, the landlord must prove their claim. When one party provides evidence of the facts in one way, and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

As the landlord is the sole applicant in this matter I will address their claims and my findings as follows:

First Claim – The landlord is seeking the recovery \$23.52 for drapes that were stained with some paint. The tenants did not dispute this claim. The landlord is entitled to \$23.52.

Second Claim – The balance of the landlords claim are costs she says she incurred due to the tenant's leaving the unit dirty and with some minor damage. The landlord undertook to repaint portions of the suite, replace laminate flooring that the landlord says the tenant's damaged by overflowing the dishwasher, cleaning supplies, replace sheers, remove carpet, and repair some water damage. The tenants dispute this entire portion of the landlords claim. The tenants stated that at the walk thru inspection at move out the landlord was extremely scattered and couldn't even find the Condition Inspection Report. The landlord acknowledged that she was unable to conduct the report as she felt stressed by the tenants and that the tenant's child was being unruly and made it difficult for her to concentrate. In the tenant's own testimony they acknowledged that they had made holes in the wall and had "prepped them for painting". I find the holes to be more than the regular "wear and tear" and that the tenants are responsible for some of those costs. Based on the evidence before me, the

tenant's own testimony and the condition inspection report at move in that does not reflect any damage to the walls, I find that the landlord is entitled to recover some of the costs to paint the walls . The landlord stated that the walls were in very good shape at move in as they had been painted "a year or two prior" to the tenant's moving in. In this regard I find that a reasonable amount to award the landlord would be half of those costs incurred for painting. The landlord provided documentation that the total costs for labour and materials was \$764.07. I find the landlord is entitled to half those costs in the amount of \$382.04. As for the balance of the landlords claim I dismiss it for the following reasons; the photos submitted by the landlord were not helpful. Without the condition inspection report being completed at move out, I am unable to ascertain the condition of the unit at that time; except for the tenant's own acknowledgement of the drapes and walls. Based on the above I dismiss the remaining costs sought by the landlord.

As for the monetary order, I find that the landlord has established a claim for \$405.56. The landlord is also entitled to the recovery of their \$50.00 filing fee. I grant the landlord an order under section 67 for the balance due of \$455.56. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order for \$455.56.

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 11, 2013

Residential Tenancy Branch

