



Dispute Resolution Services

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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 pursuant to the *Residential Tenancy Act*, for a monetary order for the cost of cleaning, repairs and for the recovery of the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of the claim. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issues to be decided

Is the landlord entitled to a monetary order for the cost of cleaning, repairs and for the recovery of the filing fee?

Background and Evidence

The tenancy started on October 01, 2003 and ended on February 28, 2013. Move in and move out inspections were conducted and the reports were filed into evidence. The tenant agreed to cover the cost of cleaning the suite, the carpets and the window coverings by initialling these items on the move out inspection report. The items that the tenant did not agreed to were the cost of repairs of the refrigerator and the cost of replacing the bathroom countertop.

The tenant stated that in 2009, he had gone on a prolonged vacation and had turned off the breakers to the rental unit. He stated he did this to prevent a fire and to avoid unnecessary charges to his utility bill. Upon his return the items in the refrigerator had rotted and leaked out thereby ruining the refrigerator. The landlord replaced the appliance, compensated the tenant for his loss of food and warned the tenant not to turn off the breakers again. In February 2013, the tenant returned from a month long vacation to the same problem.

The tenant agreed that he had turned off the breakers for the same reasons as above but stated that he did not turn off the breaker to the refrigerator. He stated that the landlord turned off the power to the refrigerator in his absence.

As a result of the power being shut off the contents of the refrigerator thawed and leaked. The maintenance person stated that there was a sticky liquid that covered the gasket of the refrigerator. Upon opening the refrigerator the gasket tore right off and had to be replaced. The landlord filed an invoice in the amount of \$203.84 for the cost of parts and labor to reinstall the gasket.

In February 2012, the tenant reported that the cabinet door in the washroom was swollen and would not shut. The tenant stated that the hot water tap dripped when in use, but he did not report it to the landlord. The landlord stated that the tenant only reported the damage when it was too late to fix.

The tenant argued that the swelling of the door began in 2009 when there was a water leak. However since then there was no evidence of a water leak and the tenant was unable to explain how the swelling of the cabinet door and the chipping of the countertop continued to occur. In any event, the tenant only reported it when the swelling was so advanced that he could no longer shut the cabinet door.

At the time of the damage, the maintenance person informed the tenant that it was too late to repair the countertop and cabinet door and they needed to be replaced at the expense of the tenant. The tenant refused to pay and the replacement was never done, until the tenant moved out. The landlord filed a copy of the invoice for the replacement of the counter top in the amount of \$480.00. The landlord stated that the countertop had just been replaced approximately one year prior to the start of the tenancy and was therefore about 11 years old at the end of the tenancy. Accordingly the landlord was claiming \$200.00 towards the replacement bill of \$480.00.

The landlord is claiming the following:

1.	Carpet cleaning	\$84.00
2.	Cleaning of suite	\$80.00
3.	Cleaning of window coverings	\$86.24
4.	Repair of refrigerator	\$200.00
5.	Replace countertop	\$200.00
6.	Filing fee	\$50.00
	Total	\$700.24

Analysis

The tenant agreed to cover the cost of cleaning the carpet, suite and window coverings. Accordingly I award the landlord the full amount claimed for these items.

Based on the testimony of both parties, I must now determine whether the landlord or the tenant turned off the power to the refrigerator. I find that the refrigerator suffered a similar breakdown in 2009 after the tenant turned off power to it, prior to going on vacation. At that time the landlord replaced the appliance and compensated the tenant.

Therefore I find that it is not likely that the landlord would turn power off to the refrigerator, after having warned the tenant not to do so and after having incurred a cost in 2009 to replace the refrigerator and compensate the tenant for a similar incident.

Accordingly, I find that on a balance of probabilities it is more likely than not that the tenant inadvertently turned off the power to the refrigerator when he went on vacation in February 2013. Therefore the tenant must bear the cost of repair in the amount of the landlord's claim of \$200.00.

Regarding the replacement of the countertop, I find that the tenant failed to report the damage in a timely manner, thereby making repair impossible. The landlord reported that at the end of the tenancy the countertop was approximately 11 years old. Section 40 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. I will use this guideline to assess the remainder of the useful life of the countertop.

As per this policy, the useful life of a countertop is 25 years and therefore at the end of the tenancy, the countertop still had approximately 14 years of useful life left. The landlord incurred a cost of \$480.00 but is claiming \$200.00. I find that the landlord's claim is reasonable and therefore I award the landlord \$200.00 towards the replacement of the counter top.

Since the landlord's claim has merit, I award her the recovery of the filing fee.

The landlord has proven her entire claim of \$700.24. I order that the landlord retain the security deposit of \$385.00 plus accrued interest of \$13.62 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$301.62. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

The landlord may retain the security deposit. In addition, I grant the landlord a monetary order in the amount of **\$301.62**.

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: April 04, 2013

Residential Tenancy Branch

