



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Langara Gardens Holdings Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the landlords application for a Monetary Order for unpaid rent; a Monetary Order for damage to the unit, site or property; for an Order permitting the landlord to keep all or part of the tenants security deposit; and to recover the filing fee from the tenants for the cost of this application.

One of the tenants and an agent for the landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The landlord provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for damage to the unit?
- Is the landlord entitled to a Monetary Order to recover unpaid rent?
- Is the landlord entitled to keep the tenants security deposit?

Background and Evidence

The parties agree that this tenancy started on February 01, 2012 for a fixed term ending on January 31, 2013 and reverting to a month to month tenancy. Rent for this unit was \$1,600.00 increasing to \$1,660.00 on February 01, 2013. The tenants paid a security deposit of \$800.00 on February 01, 2012. The landlord and one of the tenants attended a move in and a move out condition inspection of the property and the tenant gave the landlord a forwarding address in writing on January 31, 2013.

The landlord testifies that it was identified at the move out inspection that the tenants had kept a cat without the landlord's permission. This cat had left cat dander everywhere which the tenants had failed to clean up at the end of the tenancy. The unit was also left in an unreasonably clean condition. The range hood was left greasy including the filter, The stove top and oven were unclean, the cupboard doors were unclean, the bi-fold doors were greasy and had pet dander on them, the faucets were unclean, and a dishwasher knob has dirty. The blinds both vertical and horizontal were also dirty and covered in pet dander.

The landlord testifies that there was also some damage in the unit to a door where some stickers were removed and there was damage to a wall. The landlord testifies that the tenants also failed to return five tags for the recreation area. The landlord seeks to recover the cleaning costs incurred of \$35.00 per hour for 11 hours to a sum of \$385.00; \$122.50 to clean the blinds; \$100.00 to repair and paint a wall; and \$25.00 for replacement tags at \$5.00 each. The landlord testifies that the tenants were given the opportunity to re-clean the unit but failed to do so. The landlord has provided invoices for this work in evidence. The landlord has also provided a copy of the inspection reports and photographic evidence.

The landlord testifies that the tenants owe rent of \$40.00. This was incurred due to a late fee of \$50.00 that was imposed in July, 2012 as indicated as being charged on the tenancy agreement when rent is not paid by the due date.

The landlord seeks an Order to keep part of the security deposit of \$672,50 in satisfaction of their claim. The landlord also seeks to recover the filing fee of \$50.00.

The tenant attending disputes the landlords claim. The tenant testifies that the unit is 30 years old and is a dirty unit. At the start of the tenancy the tenant testifies that he did not want to sign the move in condition report but was told by the manager if they don't sign it then they can't have the keys. The tenant testifies that during the move out inspection the landlord went into far more detail noting damages or cleaning then they did when the tenants moved in.

The tenant testifies that they hired a professional cleaner to clean the unit when they moved out. This cleaner spent 10 hours cleaning the unit and now the landlord wants to charge the tenants another \$35.00 per hour to clean small areas. The tenant testifies that the landlord used their own cleaner to do both the move out inspection and the cleaning. This is a conflict as the cleaners want the work. The tenant testifies that his friends had brought in a cat but the cat was only there for 10 days.

The tenant agrees that the damage on one wall was caused by the tenant. The tenant disputes the landlord's details on the move out report and states that the landlord has checked areas saying they are satisfactory and then added details of cleaning. The tenant also disputes the landlord's photographic evidence and asks the landlord when these pictures were taken and which rooms they relate to. The landlord responds that the pictures were taken of the unit at the end of the tenancy.

The tenant disputes that they owe rent to the landlord. The tenant disputes that rent was late for July, 2012. The tenant testifies that a payment was left in the landlord's mailbox on June 30, 2012 and the landlord paid the cheque into their account late. The tenant also testifies that a landlord is not entitled to charge a tenant late fees of \$50.00.

The tenant disputes the landlords claim to keep the security deposit. The tenant testifies that the landlords don't return security deposits and then say the tenants have not

cleaned the unit properly. The tenant testifies that they still have the tags for the recreation area and did not know they had to return them to the landlord.

The landlord testifies that if the tenants do return the tags then the tenants will be reimbursed any costs awarded for the tags.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. With regard to the landlords claim for damage to the unit including cleaning; the tenant has agreed that the wall was damaged by the tenant which was not repaired at the end of the tenancy. I therefore find in favor of the landlords claim to repair and paint one wall for \$100.00. I have considered the move in and move out inspection reports which the tenant disputes and find the tenant has a right to sign the move in report at the section that states that 'the tenants do not agree that this report fairly represents the condition of the rental unit for the following reasons.....' The tenant has not signed the report in this section but has however signed the report stating that the tenant does agree that the report fairly represents the condition of the rental unit. Therefore find I can afford little credibility to the tenants claim that they were forced to sign the report.

This report indicates the areas of the unit which the landlord has described as unclean. I have also considered the photographic evidence showing the unclean areas which relate to the same areas as shown on the report. I therefore find the move out condition inspection report to be an accurate description of the condition of the unit at the end of the tenancy. Consequently i find in favor of the landlords claim for cleaning costs for the unit and the blinds and award the landlord the sum of \$385.00 for cleaning and \$122.50 for cleaning the blinds.

With regard to the recreation tags; a tenant is required to return anything relating to the tenancy to the landlord at the end of the tenancy. The tenant agrees they still have the

recreation tags in their possession. I therefore find the landlord is entitled to recover the cost of \$25.00 for these tags. If the tenant returns the tags the landlord has stated they will reimburse the tenant for this amount.

With regard to the landlords claim for unpaid rent; the landlord has testified that the tenants were charged a late fee of \$50.00 of which \$40.00 remains unpaid. The tenant argues that the rent for July was not paid late however the tenant has provided no corroborating evidence such as a cheque stub to show the date the rent was paid. The landlord has provided a copy of the rent ledger showing the rent was paid on July 04, 2012. However, a landlord is not entitled to charge a tenant \$50.00 per month for a late fee. The *Act* allows the landlord to charge a maximum amount of \$25.00. I therefore limit the landlords claim to \$15.00 as \$10.00 has already been paid by the tenant.

I find the landlord is therefore entitled to keep part of the tenants security deposit pursuant to s. 38(4)(b) of the *Act* to the amount shown on the following table. The landlord is also entitled to recover the \$50.00 filing fee from the tenants pursuant to s. 72(1) of the *Act*.

Cleaning costs	\$385.00
Blind cleaning	\$122.50
Repair and painting wall	\$100.00
Recreation tags	\$25.00
late fee	\$15.00
Filing fee	\$50.00
Amount landlord may retain from the security deposit	\$697.50
security deposit	\$800.00
Total amount of security despot to be returned to the tenants	\$102.50

Conclusion

I HEREBY FIND largely in favor of the landlord's monetary claim. The landlord may retain the amount of **\$697.50** from the tenant's security deposit. The balance of the security deposit must be returned to the tenants of **\$102.50** and the tenants have been sent a Monetary Order for this amount. The order must be served on the landlord and is enforceable through the Provincial Court as an order of that Court.

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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 05, 2013

Residential Tenancy Branch

