



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bright Sun Investment
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD, FF

Introduction

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

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served by registered mail on August 07, 2013. Canada Post tracking numbers were provided by the landlord in documentary evidence. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord's agent appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Preliminary Issues

The landlord's agent advised me there was an error in the dispute address on the application. The landlord had inadvertently put the tenants forwarding address on the application instead of the dispute address. The landlord's agent asked for this to be amended. As the tenant would be aware that this was an inadvertent error and would be aware of the dispute address, then I have allowed this amendment to the landlord's application.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for damage to the unit, site or property?
- Is the landlord entitled to keep the security deposit?

Background and Evidence

The landlord's agent testifies that this tenancy started on January 01, 2008 for a fixed term of one year. At the end of the fixed term the tenancy reverted to a month to month tenancy. Rent for this unit was \$1,095.00 plus \$50.00 parking per month and was due on the first day of each month. The tenant paid a security deposit of \$550.00 on December 13, 2007.

The landlord's agent's testimony

The suite was in a good newly renovated condition at the start of the tenancy. A move in condition inspection report was completed with both parties. The kitchen cabinets were a natural pine wood, the walls of the unit were a neutral colour. The tenant did not ask permission to paint the walls or the kitchen cabinets and went ahead and painted the walls in the unit a dark gray colour and the kitchen cabinets white. The landlord's agent asked the tenant why he did not ask permission to paint the unit or the cabinets and the tenant responded because they needed painting. The tenant was asked to return the walls and cabinets to their original colour but the tenant failed to do so.

The landlord's agent testifies that the tenant was informed that the walls will need to be repainted using two to three coats of paint due to the dark colour. The tenant sent a text message telling the landlord to go ahead and repaint the unit at the end of the tenancy. The walls have now been repainted by the landlords at a cost of \$850.00. This is an amount less than was estimated on the application and the landlord has provided a detailed invoice for the work.

The kitchen cabinet doors had to be removed, sent away to be sanded, varnished and then returned to the unit to be refitted. The landlord has provided a quote for this work for \$1,260.00.

The landlord seeks an Order to keep the tenants security deposit of \$550.00 to offset against the damages. The landlord also seeks to recover the \$50.00 filing fee.

Analysis

The tenant did not appear at the hearing to dispute the landlords claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I have carefully considered the landlords documentary evidence and sworn testimony before me of the landlord's agent.

I refer the parties to Residential Tenancy Policy Guidelines #1 which clarifies the tenants and landlords responsibilities towards the rental unit during the tenancy. The guideline states, in part, that any changes to the rental unit and/or residential property not explicitly consented to by the landlord must be returned to the original condition. If the tenant does not return the rental unit and/or residential property to its original condition before vacating, the landlord may return the rental unit and/or residential property to its original condition and claim the costs against the tenant.

The landlord has sufficient evidence to show that the tenant painted the rental unit a darker gray colour and did so without the landlord's permission. The tenant did not return the unit to its original condition by returning the walls to their original colour. Consequently, I find the landlord has established a claim for the costs to repaint the unit of **\$850.00**. I further find the tenant painted the kitchen cabinets without the landlord's permission and failed to return these to their original condition. Consequently, the landlord has established their claim for the cost of this work to an amount of **\$1,260.00**.

I Order the landlord to keep the security deposit of **\$550.00** plus accrued interest of **\$8.68** pursuant to s. 38(4)(b) of the *Act*. This amount will be offset against the landlord's monetary claim. I further find the landlord is entitled to recover the \$50.000 filing fee from the tenant pursuant to s. 72(1) of the *Act*. A Monetary Order has been issued to the landlord for the following amount:

Repainting walls	\$850.00
Restoring kitchen cabinets	\$1,260.00

Subtotal	\$2,110.00
Plus filing fee	\$50.00
Less security deposit and accrued interest	(-\$558.68)
Total amount due to the landlord	\$1,601.32

Conclusion

I HEREBY FIND in favor of the landlord's amended monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,601.32**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

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: September 17, 2013

Residential Tenancy Branch

