



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SUTTON ADVANTAGE PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for damages to the unit and an order to retain the security deposit in partial satisfaction of the claim.

The landlord's agent attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution, Notice of Hearing and evidence.

The landlord's agent testified the Application for Dispute Resolution, Notice of Hearing and evidence were sent by registered mail sent on July 16, 2013, a Canada post tracking number was provided as evidence of service. The agent stated that the Canada post track history indicated the package was successfully delivered to the tenant on July 17, 2013. I find that the tenant has been duly served in accordance with the Act.

The landlord's agent appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the landlord entitled to monetary compensation for damages?
Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on April 19, 2012. Rent in the amount of \$1,250.00 was payable on the first of each month. A security deposit of \$625.00 was paid by the tenant. The tenancy ended on July 1, 2013. Filed in evidence is a copy of the tenancy agreement.

The landlord's agent stated a move-in and move-out condition inspection report was completed. Filed in evidence is a copy of the condition inspection report. On the report the tenant agreed with the condition of the rental unit at the start of the tenancy. The tenant agreed with the condition of the rental unit at the end of the tenancy.

The landlord claims as follows:

a.	Carpet cleaning	\$ 120.00
b.	Suite cleaning	\$ 595.00
c.	Repair 2 doors with holes, paint & re-hang	\$ 100.00
d.	Filing fee	\$ 50.00
	Total claimed	\$ 865.00

The landlord's agent testified that the tenant did not clean the carpets at the end of the tenancy. The agent stated that the tenant agreed in the move-out condition inspection report that the carpets needed to be cleaned. The landlord seeks compensation for cleaning the carpets in the amount of \$120.00. Filed in evidence is a receipt for carpet cleaning.

The landlord's agent testified that the tenant only removed his personal belongings from the rental unit and made no attempt to clean the unit. The agent stated that tenant agreed in the move-out condition inspection report that he left the appliance, floors cupboards and baseboards dirty. The agent stated they had to hire a cleaning company. The landlord seeks compensation in the amount of 595.00. Filed in evidence is a receipt for cleaning.

The landlord's agent testified that the tenant cause damage to two doors in the rental unit and this was acknowledged in the move-out inspection report. The agent stated they had to hire a company to repair the doors. The landlord seeks compensation in the amount of \$100.00. Filed in evidence is a receipt for repairs to two doors.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities.

To prove a loss and have one party pay for the loss requires the claiming party to prove four different elements:

- Proof that the damage or loss exists;
- Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act or agreement;
- Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
- Proof that the Applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Under section 37 of the Act, the tenant is required to return the rental unit to the landlord reasonably clean and undamaged, except for reasonable wear and tear. Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

Under the Residential Policy Guideline 1, which clarifies the rights and responsibilities of the parties for the premises under the Act, the tenant is generally expected to clean the carpets if vacating after a tenancy of one year.

The evidence of the landlord's agent was the tenant did not clean the carpets at the end of the tenancy. The move-out inspection supports the carpets were not cleaned as required. As a result, I find the tenant has breached section 37 of the Act, when they failed to clean the carpets at the end of the tenancy and this has caused losses to the landlord. Therefore, I find the landlord is entitled to compensation for the cost of having the carpets cleaned in the amount of **\$120.00**.

The evidence of the landlord's agent was the tenant made no attempt to clean the rental unit. The move-out inspection report supports the landlord's position as the tenant agreed in the report that he did not clean the appliances, floors, cupboards and baseboards. As a result, I find the tenant has breached section 37 of the Act, when they failed to clean the rental unit at the end of the tenancy and this has caused losses

to the landlord. Therefore, I find the landlord is entitled to compensation for the cost of having the rental unit cleaned in the amount of **\$595.00**.

The evidence of the landlord's agent was the tenant damaged two doors in the rental unit. The tenant agreed in the move-out inspection that they damaged two of the doors. As a result, I find the tenant has breached section 37 of the Act, when they failed to repair the damage doors at the end of the tenancy and this has caused losses to the landlord. Therefore, I find the landlord is entitled to compensation for the cost of having the doors repaired in the amount of **\$100.00**.

I find that the landlord has established a total monetary claim of **\$865.00** comprised of the above described amounts and the \$50.00 fee paid for this application.

I order that the landlord retain the security deposit and interest of **\$625.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$240.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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: October 17, 2013

Residential Tenancy Branch

