



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MND, MNDC, FF

Introduction

This hearing dealt with two related applications. File A is the landlord's application for a monetary order and an order permitting retention of the security deposit in full or partial satisfaction of the claim. File B is the tenant's application for payment of double the security deposit. Both parties appeared and had an opportunity to be heard.

The landlord's original application for dispute resolution was sent by registered mail to the address provided by the tenant. For some reason it was returned by the post office. The landlord subsequently amended its' application for dispute resolution and sent it by registered mail to the same address. The tenant acknowledged receipt of the amended application.

Issue(s) to be Decided

- Is the landlord entitled to a monetary order and, if so, in what amount?
- Is the tenant entitled to return of double the security deposit?
- What disposition should be made of the security deposit?

Background and Evidence

This tenancy commenced July 1, 2010 as a one year fixed term tenancy and continued thereafter as a month-to-month tenancy. The rent was due on the first day of the month. At the start of the tenancy the monthly rent was \$850.00. By the end of the tenancy the monthly rent was \$930.00. The tenant paid a security deposit of \$425.00 at the start of the tenancy. A move-in inspection was conducted and a move-in condition inspection report completed on August 12, 2010.

The tenancy ended August 31, 2013. A move-out inspection was conducted on September 1. There had been a disagreement between the building manager and the tenant a few days before the end of the tenancy so the inspection was tense and acrimonious. The tenant refused to sign the move-out inspection form.

On September 3 the tenant delivered a letter to the landlord stating that he did not agree with the damages itemized on the move-out condition inspection report and

providing his forwarding address in writing. The landlord filed its' application claiming against the security deposit on September 16.

The landlord claimed \$150.00 for cleaning (12 hours @\$12.50/hour). The building manager did the work. She stated that the tenant had really tried to clean the unit but the job was not adequate. Although her invoice was for a complete cleaning her testimony focused on a few specific tasks. The first was that there was a pet hair everywhere. This had to be washed off because the painters could not paint if there was hair on any surface. The kitchen cupboards had a lot of grease on them and it took some hard labour and heavy chemicals to clean them. The drapes had not been washed. It took several hours to remove them, launder them, and re-hang them. Finally, there was a smell of pet urine which required heavy cleaning in order to remove it.

The tenant stated that he had one cat and one ferret throughout the tenancy. He also had a second ferret for a short period of time and baby sat a second cat for a short period.

The tenant described the cleaning he, his mother and his friend did at the end of the tenancy. He described how he cleaned the oven, the inside of the refrigerator, the walls the baseboards, the floors, the balcony, and under the appliances. They spent many hours cleaning the unit before the inspection.

The tenant admitted that he forgot to clean the range hood and that the side of the stove was a little greasy. He also said he did not clean the curtains. The cleaning instructions given to him by the building manager only referred to blinds. There were no blinds in the unit, only heavy thick drapes and he did not want to do anything wrong so he left them alone.

The landlord claimed \$150.00 to replace the bathroom sink which was new at the start of the tenancy and cracked at the end. The tenant admitted to the damage. The landlord actually changed the plumbing and repaired the bathroom cabinet as well for a total cost of \$333.10 but only claimed a portion of the cost against the tenant.

The landlord claimed \$18.00 (1 hour labour @\$18.00/hour) to repair and adjust the closet doors. The tenant admitted that one or more of the closet doors had come off the guides and suggested that perhaps too much pressure had been placed on them.

The landlord claims \$45.00 (2.5 hours @\$18.00/hour) to repair the kitchen drawers. The landlord says they replaced the metal guides in the two lower drawers. Although

there was also damage to the upper cabinets and the kitchen floor they did not claim for that. The materials invoice filed by the landlord gives the price of the slide guides as \$5.39 each plus GST and PST for a total of \$6.04 each. The tenant says the drawers were working fine when he moved out.

Analysis

The expectations upon landlords and tenants regarding maintenance and repairs is set out in *Residential Tenancy Policy Guideline 1: Landlord & Tenant – Responsibility for Residential Premises*. It states that a tenant must maintain “reasonable health, cleanliness and sanitary standards” during the tenancy and must leave unit in a condition that meets that standard at the end of the tenancy. The *Guideline* also states that an arbitrator must determine whether the condition of the premises meets “reasonable health, cleanliness and sanitary standards” “which are not necessarily the standards of the arbitrator, the landlord or the tenant”.

It is clear that the tenant did make a substantial effort to leave this unit in a clean condition. Some of the cleaning done by the building manager may have been to bring the unit to her standard but based on the tenant’s own evidence, there were some things that were left undone or were done incompletely.

With respect to window coverings the *Guideline* states: “the tenant is expected to leave the internal window coverings clean when he or she vacates. The tenant should check with the landlord before cleaning in case there are any special cleaning instructions.” As it turned out, these curtains were machine washable. After a tenancy of three years, especially when there were pets in the unit, the tenant should have washed the curtains.

I find that \$150.00 is a reasonable claim just for to washing the curtains, degreasing the kitchen, cleaning the range hood, and cleaning up all the reminders of the pets. This claim is allowed in full.

With respect to the claims for repairs of the bathroom sink and the closet doors, the tenant does not dispute the damage and the amounts claimed is reasonable. The sum of \$168.00 is allowed for this item.

There is conflicting evidence as to the condition of the kitchen drawers at the end of this tenancy. The tenant was forthright when admitting to the other damage so there is no reason to disbelieve his evidence. Similarly, the building manager was straightforward in her evidence and underplayed any claims the landlord made so there is no reason to disbelieve her either. The onus of proof on any claim is on the party making the claim, in this case, the landlord, to prove their case on a balance of probabilities. When there

is only the conflicting oral testimony of the parties, and nothing else to tip the balance of probabilities in the applicant's favour, the claim must be dismissed. Accordingly, the claim for repair of the kitchen cabinets is dismissed.

With respect to the tenant's claim for payment of double the security deposit section 38(1) of the *Residential Tenancy Act* provides that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit to the tenant or file an application for dispute resolution claiming against the deposit. If a landlord does not comply with section 38(1), section 38(6) provides that the landlord must pay the tenant double the amount of the security deposit. In this case the landlord did file its' application for dispute resolution within 15 days of receiving the tenant's forwarding address in writing so is not subject to the section 38(6) penalty.

Conclusion

I find that the landlord has established a total monetary claim of \$368.00 comprised of \$150.00 for cleaning, \$168.00 for repairs, and the \$50.00 fee paid by the landlord for its' application. I order that the landlord retain the sum of \$368.00 from the security deposit in full satisfaction of the claim and I grant the tenant a monetary order under section 67 for the balance of \$57.00. If necessary, this order may be filed in the Small Claims Court and enforced 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: November 21, 2013

Residential Tenancy Branch