



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with an application by the landlords for an order authorizing them to retain the security deposit and to recover the filing fee paid to bring their application. Both parties participated in the conference call hearing.

The landlords submitted 20 photographs to the Residential Tenancy Branch prior to the hearing and at the hearing, the tenant testified that she had received just 15 of those photographs. The landlords referred at one point to a photograph of the carpet showing a large stain and I advised them that I had not received such a picture. The tenant confirmed that she had not received that photograph either. The landlords asked that they be permitted to submit the photograph after the hearing. I denied this request as an adjournment would then be required to permit the tenant opportunity to respond to the photograph and as the omission of the photograph from the rest of their evidence package occurred as a result of the landlords' own oversight.

Issue to be Decided

Should the landlords be authorized to retain the security deposit?

Background, Evidence and Analysis

The parties agreed that the tenancy began on June 1, 2013 and ended on August 30, 2013. They further agreed that rent was set at \$950.00 per month and that the tenants paid a \$475.00 security deposit at the outset of the tenancy. I note that as the details of the landlords' claim and my findings around each claim are as follows:

1. Damage to carpet

The landlords seek to recover \$300.00 as the value of the carpet in one of the bedrooms. The landlords testified that the unit had been newly renovated at the

beginning of the tenancy and that the carpet was new at that time. At the end of the tenancy, the landlords found that the carpet was stained with the outline of the bed which had been upon it. The landlords provided a copy of an estimate showing that it would cost \$326.00 to purchase new carpet and underlay. They testified that they had not replaced the carpet as of the date of the hearing.

The tenant testified that she thoroughly steam cleaned the carpet upon her departure and does not believe there is any staining.

The landlords bear the burden of proving their claim and in the absence of evidence to corroborate that there is damage to the carpet and that such damage goes beyond what may be characterized as reasonable wear and tear, I find that the landlords have not met the burden of proof for this claim. Accordingly, the claim is dismissed.

2. Curtain replacement

The parties agreed that the landlords are entitled to recover \$25.00 as the cost of replacing curtains. I award the landlords \$25.00.

3. Furniture rental

At the outset of the tenancy, the parties entered into an agreement whereby the landlords would leave certain furniture in the unit, including a dinette table with 4 chairs, a couch, loveseat and television, and the tenant would purchase these items from the landlord for the sum of \$500.00. This agreement for the purchase of the furniture did not appear in the tenancy agreement. After several months, the tenant advised the landlords that she could not purchase the furniture, but offered to pay \$75.00 for the rental of the furniture for the 3 month period in which she used it. The landlords seek to recover the \$75.00 rental fee promised by the tenant.

Although the written tenancy agreement did not include a reference to the agreement to purchase or rent the furniture, I find that because the agreement was entered into concurrently with the tenancy agreement and because the tenant induced the landlord to leave the furniture in the unit at the outset of the tenancy by promising to rent it, it is sufficiently related to the tenancy to fall within the jurisdiction of the Act. As the parties are in agreement that the tenant offered and the landlords accepted a \$75.00 furniture rental fee for the duration of the tenancy, I find that the landlords are entitled to this sum and I award the landlords \$75.00.

4. Furniture cleaning and decreased value

The landlords testified that the tenant damaged the aforementioned furniture, scratching the table which was new, and damaging the couch by soiling it, ripping it and repairing it with red thread. The landlords testified that they rented a steam cleaner at a cost of \$34.71 to clean the soiled furniture and that they spent 3 hours performing the cleaning, for which they wish to charge at a rate of \$25.00 per hour.

The tenant testified that the furniture was not damaged and suggested that it had been damaged when the landlords left it out in the sun. The tenant denied that the furniture was soiled and testified that when she left the rental unit, the table top was not scratched, so the landlords must have scratched it when they moved it from the unit.

The photographs provided by the landlords, and which the tenant had copies of, show heavily soiled furniture and a badly scratched table. The tenant denied having caused any damage whatsoever despite the fact that the photographs clearly show damage even though some of the photographs were taken during the tenancy while the tenant was still using the furniture. I find it more likely than not that the tenant caused the damage in question.

I find that the couch required steam cleaning, but I am unable to find that it would have taken 3 hours to clean it. I find that the landlords are entitled to recover the \$34.71 cost of renting the steam cleaner and \$25.00 representing one hour of labour. I further find that the landlords are entitled to an award showing the diminution in value of the furniture. At the beginning of the tenancy, the landlords valued the furniture at \$500.00 when they sold it to the tenant. I am not satisfied that the damage reflected in the photographs is equivalent to 1/5 of the value of the furniture. I find that an award of \$60.00 will adequately compensate the landlords. I award the landlords \$119.71 which represents the steam cleaner rental, one hour of cleaning and the reduced value of the furniture.

5. Cleaning

The landlords seek to recover \$50.00 as the cost of cleaning the rental unit, removing garbage and removing dog feces from the lawn. This sum represents 2 hours of cleaning at a rate of \$25.00 per hour. The landlords testified that the tenant failed to clean the dryer, ceiling fan, underneath appliances and that she also failed to clean up after her dog. The landlords stated that they removed a significant

amount of feces from the backyard and provided photographs of areas in the unit which weren't clean as well as of dog droppings.

The tenant acknowledged that she didn't clean the dryer, fan or underneath the appliances and testified that it was her son's job to clean up after the dog and she assumed that he was meeting his obligations because the landlords did not mention during the tenancy that this was a problem.

I am satisfied that additional cleaning was required at the end of the tenancy and that the landlord had to clean up after the tenant's dog. The tenant was responsible to ensure that the dog feces was removed from the yard and she failed to do so. I find the landlords' claim for 2 hours of cleaning to be reasonable and I award the landlords \$50.00.

6. Key replacement

The landlords seek to recover \$5.00 as the cost of replacing a key which was not returned at the time the tenant surrendered possession of the rental unit. The landlords testified that the tenant agreed to vacate the unit on August 30 and did so, leaving behind just one of the 2 keys which were issued to her.

The tenant testified that on September 1, her boyfriend returned to the unit with the key she had failed to return when she vacated on August 30.

The landlords acknowledged having received the key on September 1 but testified that because the new tenants had moved into the unit on August 31 and one key was still missing, they had to change the locks.

Section 37 of the Act provides that when the tenant surrenders the rental unit, she must return all keys to the landlord. I find that because the tenant surrendered possession of the unit on August 30, she was required to return all keys on that date. I find that the landlords are entitled to recover the \$5.00 claimed and I award them that sum.

7. Filing fee

The landlords seek to recover the \$50.00 filing fee paid to bring their application. As the landlords have been largely successful in their claim, I find that they are entitled to recover that fee and I award them \$50.00.

Conclusion

In summary, the landlord has been successful as follows.

Curtain replacement	\$ 25.00
Furniture rental	\$ 75.00
Furniture cleaning and decreased value	\$119.71
Cleaning	\$ 50.00
Key replacement	\$ 5.00
Filing fee	\$ 50.00
Total:	\$324.71

I order the landlords to retain \$324.71 from the \$475.00 security deposit and I order them to forthwith return to the tenant the balance of \$150.29. I grant the tenant a monetary order under section 67 for this sum. This order may be filed in the Small Claims Division of the Provincial 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: December 10, 2013

Residential Tenancy Branch

