



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order for damage to the unit, site, or property, and to recover the RTB filing fee.

Both the landlord and tenant attended the teleconference hearing and gave affirmed evidence.

Issue(s) to be Decided

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The parties agree that the tenancy started June 4, 2013 and ended December 31, 2013. The tenant was obligated to pay \$900.00 in rent monthly in advance on the first day of the month. The tenant also paid a \$450.00 security deposit.

The landlords are seeking a monetary order for most of the cost of replacing the carpets and repainting the rental unit.

The landlords gave evidence that they purchased the house containing the rental unit and took possession on June 4, 2013. On that day, the landlords moved in upstairs and the tenant moved in to the rental unit. It is the landlords' evidence that the rental unit was also rented out by the previous owner of the house. The house is about six or seven years old, and the rental unit has been a rental unit for about the same period of time. The landlords do not know with certainty when the rental unit was last painted or when the carpets were installed. The landlords' evidence is that they assume the carpets were installed when the house was first built.

The landlords gave evidence that the carpets looked new at the beginning of the tenancy. Their evidence is that the carpets now have numerous stains. The landlords provided photographs of the carpets which appear to confirm the presence of numerous stains.

The landlords provided a copy of a Condition Inspection Report (CIR) completed with the tenant at the beginning and end of the tenancy. The CIR indicates the condition of the carpets was "good" at the beginning of the tenancy. The CIR notes "many stains" on the living room carpet, "stains" on the master bedroom carpet, and "stains" on the other bedroom carpet.

The landlords gave evidence that the tenant put an unreasonable number of holes in the walls and used large nails rather than picture holders. Their evidence is that there are now about 20 holes in the walls. Their evidence is that they do not know how many holes were in the walls at the beginning of the tenancy, but they were small ones. The landlords' evidence is that there were two ink drawings on the walls at the end of the tenancy; one about 6" x 8" and one about 2' x 2".

The CIR indicates the condition of the walls in the kitchen at the beginning of the tenancy was "good", and at the end of tenancy "series of holes marks". The condition of the living rooms walls is "fair" at the beginning of tenancy, and "many nail holes scrapes" at end of tenancy. The condition of the master bedroom walls is "good" at the beginning of tenancy, and "pen drawings" at end of tenancy. The condition of the other bedroom walls was "fair" and "crack around base of moulding at bottom" at the beginning of tenancy, and "screws nails" at the end of tenancy.

The CIR is signed by both parties on the move-in and move-out lines, although the date of the move-out inspection is not filled in. The section "Damage to rental unit or residential property for which the tenant is responsible:" states "50% of holes scuff marks in walls that require repairs painting". The tenant signed the section which says "agreement this report fairly represents the condition of the rental unit".

The landlords' evidence is that the carpets were wet from cleaning at the time of the move-out inspection, so the stains on the carpet were not apparent. The landlord estimates there are 12 to 15 stains, whereas two or three would have been normal wear and tear. The landlord gave evidence that the tenant had children's parties and there may have been spilled beverages which were not cleaned up thoroughly and which may have caused the staining.

The tenant's evidence is that during her tenancy about six nail holes and two pen marks were added to the walls. The tenant gave evidence that her understanding was that she was agreeing that the landlord could withhold 50% of her security deposit (\$225.00), based on damage to the walls. She states she did not agree the landlord could withhold any amount for damage to the carpet. The tenant's evidence is that she did not agree with the way the landlord filled out the CIR, but she signed it because she thought they had an understanding.

The tenant gave evidence that there were some stains on the carpets at the beginning of her tenancy, including one on the living room carpet close to the sliding doors near the heater and one in the master bedroom below an electrical outlet.

The tenant gave evidence that she does not believe she is responsible for any costs associated with replacing the carpet. Her evidence is that she cleaned the carpet three times, twice with a rental cleaner and once by hiring a carpet cleaning service. A representative of the carpet cleaning service gave affirmed evidence as a witness. His evidence is that the carpet was in fair condition for a five to seven year-old carpet.

The landlords' position is that the tenant agreed to 50% of the cost of repairing the walls, not 50% of her security deposit.

The landlord submitted a \$1,536.63 quote for painting the entire rental unit, and a \$4,261.76 quote for re-carpeting the rental unit. These quotes total \$5,798.39 and the landlord claims \$5,000.00 from the tenant.

Analysis

The CIR notes stains on the carpet at the end of the tenancy where there were no such notes at the beginning of the tenancy. The tenant signed the CIR, including the section that says the CIR fairly represents the condition of the rental unit at the end of the tenancy. Although the tenant may have privately disagreed with the CIR, she is responsible for what she signed. Accordingly, I find the tenant is responsible for some stains on the carpet. I find the tenant is responsible for 50% of the stains on the carpet, based on her evidence that some stains existed prior to her tenancy. I accept the evidence provided in the landlord's photographs that it is appropriate to replace the carpet at this time.

I accept the tenant's evidence that she is responsible for some nail holes and marks on the walls.

I estimate the carpet to be seven years old. According to Residential Tenancy Guideline **40. Useful Life of Building Elements** ("RTB Guideline 40"), the useful life of a rental unit carpet is 10 years. Since the carpet is 70% through its useful life, the landlord may only claim a maximum of 30% the cost of replacement. Since I have found the tenant is responsible for half of the stains on the carpet, I find the tenant is responsible for 15% of the cost of carpet replacement. Based on the quote provided, 15% is \$639.26.

I estimate the interior paint in the rental unit to be seven years old. According to RTB Guideline 40, interior paint in a rental unit has a useful life of four years. The interior paint in the rental unit was therefore already beyond its useful life at the beginning of the tenancy. I accept the tenant's evidence that she thought she was agreeing to pay \$225.00 toward the cost of repairing and painting the walls. I accept that this is an appropriate amount for the tenant's contribution toward repairing the walls and painting.

The landlords are also entitled to recover their RTB filing fee of \$50.00. The amount due the landlords is therefore \$639.26 + \$225.00 + \$50.00 for a total of \$914.26. I order that the landlord retain the security deposit of \$450.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$464.26. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlords a monetary order for \$464.26. The landlords are also entitled to retain the security deposit.

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: March 28, 2014

Residential Tenancy Branch

