



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MND MNDC MNSD

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The landlord also seeks recovery of the \$50 filing fee for this application from the tenant. Both parties attended the hearing and had an opportunity to be heard.

Issue(s) to be Decided

Is the landlord entitled to the requested orders?

Background and Evidence

This tenancy began on June 2, 2013 and ended on or about November 6, 2013. The rent was \$1600 per month. A security deposit of \$800 was paid at the start of the tenancy. The rental unit was furnished and included cooking supplies such as pots, pans, utensils, etc.

On or about June 18, 2014 the tenant was using a pot to boil some water and the bottom of the pot melted. Some of the melted aluminium spilled onto the marble countertop and cause some discolouration.

The tenant reported the incident to the landlord at the time it occurred. According to the landlord, the tenant had assured her that she would pay for the cost of repairing the countertop.

However, the repair to the countertop ended up being very high: \$952 including tax. As a result of the repair cost being so high the tenant became less enthusiastic about paying for it.

The landlord has argued that the tenant should pay for it because she did the damage and that this damage goes beyond normal wear and tear. The landlord believes that the tenant was negligent and let the pot burn dry which then caused the pot to melt.

For her part, the tenant argued that the kitchen items were provided by the landlord and that it was a faulty pot. The tenant believes the landlord should be able to recover from the manufacturer of the pot because she is the one who purchased them. The tenant also denied any negligence and claims that this was just a “bizarre accident” caused by a faulty pot and that she should not be held liable for any damage.

Photos of the melted pot and copies of communications between the parties were submitted.

Analysis

Both parties made good arguments in this case but, on balance, I find that the damage must be paid for by the tenant. My finding in this regard is based on the fact that there is no question as to who did the damage and that is more probable than not that this pot was allowed to boil dry. When the pot boiled dry it would have only taken a short time before the pot melted. The ensuing damage was unfortunate but damage nonetheless.

Conclusion

I order the tenant to pay to the landlord the sum of \$952.

Given the outcome of this hearing I also order the tenant to reimburse the landlord for the \$50 cost of this application.

I therefore order that the landlord retain the deposit of \$800 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$202.00. 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: March 31, 2014

