



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD MND FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on November 28, 2013, by the Landlord to obtain a Monetary Order for: damage to the unit, site or property, to keep the security deposit, and to recover the cost of the filing fee from the Tenant for this application.

The parties appeared at the teleconference hearing and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

The Landlord attended this proceeding along with his two agents and all three provided testimony on behalf of the Landlord. Therefore, for the remainder of this decision, terms or references importing the Landlord as singular shall include the plural and vice versa.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

Has the Landlord met the burden of proof to retain the security deposit?

Background and Evidence

It was undisputed that the parties executed a written tenancy agreement for a fixed term tenancy that commenced on December 1, 2011 that switched to a month to month tenancy after December 1, 2012. The Tenant was required to pay rent of \$765.00 plus parking on the first of each month. On December 1, 2011 the Tenant paid \$380.00 as the security deposit. The Tenant ended the tenancy and vacated the unit as of

November 15, 2013. The parties attended the move-in inspection on December 1, 2011 and the move out inspection on November 15, 2013.

The Landlords testified that they are seeking compensation for damages that are beyond normal wear and tear, as defined in the RTB Policy Guidelines. They pointed to their evidence which included photographs that show numerous large screw holes that were left in a wall in the bedroom and holes that were drilled through the tiles and grout surrounding the bathtub. They argued that the Tenant had installed a bookshelf in the bedroom and removed it when she moved out, leaving numerous holes in the wall. The Tenant had also had some sort of shower rack installed in the bathroom and when she removed it she left holes in the tiles which would have enabled water to seep behind and cause damage.

The Landlords submitted that in addition to the above damages the Tenant installed a large hook in the middle of the dining room ceiling to hang a light; painted part of the kitchen cupboards white; and installed a towel rack by screwing it to the side of the countertop. This work was all done without the written permission from the Landlord.

The Landlords pointed to section 27 of their tenancy agreement which stipulates that the Tenant is responsible for repairs and maintenance for damages that are beyond normal wear and tear.

The Tenant did not dispute that she had installed a bookshelf in her bedroom, installed a shower rack in the bathroom, installed a large hook in the dining room ceiling, and painted the kitchen cupboards. She could not remember if she had the towel rack installed or if it was there when she moved into the unit. She argued that the bookshelf and shower rack were installed by a handyman she had hired and confirmed that she herself painted the cupboards because she had not found them appealing. The Tenant also confirmed that she did not have the Landlord's permission to install these items or to paint the cupboards.

In closing the Tenant argued that she does not feel the repair costs would total her security deposit of \$380.00. The Landlords argued that the repair costs and filing fee amount to more than the deposit at a total of \$489.30, as per the receipts and monetary order worksheet provided in their evidence. They recognize that amount is more than the security deposit; however, they are only seeking to retain the \$380.00 deposit and interest and are not seeking a monetary order for the difference.

Analysis

A party who makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided for in sections 7 and 67 of the *Residential Tenancy Act*.

Section 32 (3) of the Act provides that a tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

Section 37(2) of the Act provides that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

Upon review of the evidence before me, I find the Tenant left numerous screw holes in the bedroom, and in the bathroom tile and grout which amount to damage that exceeds normal wear and tear. Furthermore, the Tenant painted the cupboards and installed a large hook in the dining room ceiling which also amount to damage that exceeds normal wear and tear. Based on the aforementioned I find the Tenant has breached sections 32(3) and 37(2) of the Act, and I accept that this damage has caused the Landlord to suffer a loss of \$489.30.

As per the above, I find the Landlord has met the burden of proof and I approve their claim to retain the \$380.00 security deposit plus \$0.00 in interest; which they currently hold in trust.

Conclusion

The Landlord has been successful with their application and is HEREBY ORDERED to retain the Tenant's full security deposit plus interest, in full satisfaction of their claim.

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

