



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MND, FF

Introduction

This hearing was convened in response to an application by the Landlord and an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The Landlord applied on December 9, 2013 for:

1. A Monetary Order for damages – Section 67; and
2. An Order to retain the security deposit – Section 38.

The Tenant applied on December 24, 2013 for:

1. An Order for the return of the security deposit – Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions under oath.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to retain the security deposit?

Is the Tenant entitled to return of the security deposit?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The following are undisputed facts: The tenancy started on May 1, 2013 and ended on December 2, 2013. Rent of \$1,800.00 was payable monthly. At the onset of the

tenancy the Landlord collected \$900.00 as a security deposit. During the tenancy the Tenant painted some walls of the unit without the Landlord's permission.

The Landlord states that he had to paint the walls to cover a bad paint job and claims \$1,050.00. The Landlord states that the entire unit was painted although only the hallway, 2 walls in the living room and the bathroom was painted.

The Tenant states that only 1/3 of the unit required painting and provided quotes from 2 companies indicating that the same paint coats for the job was estimated at approximately \$400.00. The Landlord states that the one quote was checked and the author confirmed that its quote did not include the bathroom ceiling.

Analysis

In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established. Given the Tenant's quote evidence, the evidence of area that required paint to cover the Tenant's paint job and considering the Landlord's evidence that the entire unit was painted, I find that the Landlord has claimed in excess of the damage caused by the Tenant. I find therefore that the Landlord is only entitled to **\$400.00**. I order the Landlord to deduct this amount from the security deposit of **\$900.00** plus zero interest. As the Tenant has been primarily successful, I find that the Tenant is entitled to recovery of the \$50.00 filing fee. I therefore order the Landlord to return the **\$500.00** plus **\$50.00** to the Tenant forthwith.

Conclusion

I Order the Landlord to retain \$400.00 from the security deposit plus interest in the amount of \$900.00 in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for the amount of **\$550.00**. 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: March 31, 2014

Residential Tenancy Branch

