



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

The landlord applies for a monetary award for cleaning, repair and re-keying the premises after the tenants vacated.

Issue(s) to be Decided

Does the relevant evidence presented at hearing show on a balance of probabilities that the landlord is entitled to any of the relief requested?

Background and Evidence

The rental unit is a one-bedroom plus den basement suite in a house. The landlord resides upstairs but is not often home.

The tenancy started in July 2013 and ended March 31, 2014. It had been for a fixed term ending July 31, 2014 the tenancy ended earlier as the result of a ten day Notice to End Tenancy for unpaid rent. The landlord does not hold a security deposit.

The landlord seeks to recover the cost of a repairman's attendance to get the dishwasher working after the tenants vacated. She presents a bill for \$78.75 from the repairmen.

The tenants' say they didn't use the small, under-counter dishwasher and present a more complete invoice from the repairman indicating that all that was required to restore the dishwasher to operation was to throw an electric breaker. The breaker box is located in the landlord's portion of the home.

The landlord seeks \$1168.91 for the cost of significant repairs to the "engineered hardwood" floor covering a large part of the living area of the suite. She presented a number of photos showing marks, scratches and scuff on the floor. She claims the floor

was new at the start of the tenancy. A letter provided from the repairman states the he was the original installer just over a year ago and that in his opinion the occupants "made no attempt to keep (the floors) from being damaged. He notes that furniture was dragged across the floor creating large scratches in the "hardwood" and that such a floor should look considerably better after one year.

It was agreed at hearing that the floor is not a "hardwood" floor. It is composed of man made strips of about 4.5 inches in width, with a wood covering or veneer.

The move in report prepared by the parties indicates the floors to be "good." The tenancy agreement contains an addendum it requires that felt protectors shall be placed on the base of all the legs of all furniture.

The tenant Ms. L. and the witness, her father Mr. L. testified that felt protectors were applied to the furniture; in some cases, more than once. The tenants produce their own photos of the premises at the end of the tenancy and no floor damage is observable.

The landlord seeks \$99.88 for rekeying the rental unit. She says that though the tenants were given two keys and though they returned two keys, one of the keys did not work. She says that the tenant Mr. R. was convicted of assault in the past and so re-keying was matter of safety for any future tenant.

The tenants say that they returned the keys they had been given and noted that it had been their experience that one of the keys had been troublesome. They say the assault charge was a "bar fight" six years ago.

The landlord seeks \$144.00 paid for cleaning and provided a number of photos showing shower walls and tiles unwiped, some hairs on the floor, a fan cover with lint or dust build up, some finger marks on walls, a wall that appears to have had some liquid running down its face, some cupboard doors not wiped clean, a fridge with food remains in various spots, a ceramic stove element with build up of some kind on it, a cupboard unwiped, appliance control faces not cleaned and a series of photos showing dirty water in a double sink, apparently taken by the hired cleaner to show how much dirt was cleaned off the flooring.

The landlord referred to a witness statement filed by the tenants. Ms. L.F. wrote that she attended on March 31 and was impressed with how clean and tidy the suite was left. She says she saw no damage that (in her opinion) exceeded reasonable wear and tear or might have been from previous tenants. The landlord referred to this statement,

not as to its truth or accuracy, but to argue that there had been no previous tenants using the new floor.

The landlord claims to recover \$250.00 paid for painting a bathroom wall, dining room wall and baseboards. The landlord's photos show the dining room wall to have a faint design. The tenants say they had decals on the wall but had removed them and perhaps there remained a bit of adhesive. The faint design cannot be seen in the tenant photos.

The tenants point to their extensive photo evidence which shows none of the complained of items. They also refer to statements of neighbours. Mr. M. S. a nearby homeowner, wrote on April 24, 2014 that he was asked to a "walk thru" by the tenants and that he and two other neighbours found the premises to be "exceptionally clean + no damage whatsoever." The neighbours Ms. S. Archer (who took all the tenants' photos for them) and Mr. R.K. signed a combined statement dated April 25, 2014, saying that Mr. R.K. had helped the tenant R.J. move furniture out of the rental unit and load a moving truck and that on March 31 they observed that "everything was clean and in good condition."

Analysis

I deny the landlord's claim for dishwasher repair. It is apparent that the dishwasher did not need repair. Rather an electric breaker was somehow thrown and needed resetting. It's unfortunate that this simple fix was not determined before incurring the cost of the repairman, but the evidence does not show the tenants were responsible.

I deny the claim for rekeying. I am not persuaded that the tenants had only one key remaining and thought to obtain a second similar key that obviously would not work, and return the two keys. As well, since the landlord has raised the issue of the character of one of the tenants, it is fair to consider the written evidence of the neighbours who obviously befriended and liked the tenants and apparently considered them of good character. Lastly, in my view, the fact that a person was convicted of assault does not mean that he is a threat to return and break into a suite he once rented.

In regard to cleaning and repair, it must be said that it is not unusual for a landlord re-taking a rental unit and wanting it in the best possible condition to show or present to new tenants to have higher cleanliness and wear and tear standards than tenants usually rushing to move out to a new place and not particularly inspired to meet those standards.

The *Residential Tenancy Act*, s. 37 (2) requires only that a vacating tenant must leave the rental unit “reasonably clean, and undamaged except for reasonable wear and tear.”

The cleaning and painting issues in this dispute are puzzling. The landlord’s photographic evidence is far more detailed than the tenants’ general overview photos and so is a better indicator of the state of the premises. At the same time, the tenants’ photos show the premises to be in very good condition: certainly up to the standard of “reasonably clean” and even better, with no apparent damage. Perhaps more puzzling, three homeowner neighbours were persuaded to state the premises were clean and undamaged. It is as if each side was looking at a different rental unit.

The onus of proof is on the claimant, the landlord in this instance, to prove her case on a balance of probabilities and she had not done so regarding the cleaning and painting issues. I dismiss her claims for cleaning and wall painting.

Regarding the flooring, I find that it was scratched and marred during this tenancy. The landlord’s photos show in detail small dents and scratches and some areas of light scratching. Before move-out the tenants had used a type of floor repair crayon on the scratches and perhaps that is why they were not noted by the three witnesses. None of the photographic evidence shows what I would consider “large” scratches as referred to by the floor repairmen. I also find that the tenants’ complied with the addendum requirement for felt protectors. I accept the evidence of Mr. L. the applied and later re-applied protectors in order to protect the floor.

It also appears that this type of flooring is not readily repairable. Mars and scratches cannot be sanded or filled. According to the landlord, any damaged board had to be replaced and to replace a board apparently requires removal of many boards and removal of baseboard around the floor. This the landlord has done, replacing 55.8 square feet of flooring at a cost of \$1168.91.

Even with the felt protector requirement in the addendum clause, a landlord renting a home with this type of flooring to a couple with a young child must expect some wear and tear to it, but in this case having regard to the landlord’s photos, I find that the damage to the flooring minimally exceeded “reasonable wear and tear.” Having regard to that finding, the tenants should not be responsible for the total cost of the replacement of affected boards. I award the landlord half the cost of the floor repair: the amount of \$584.45.

Conclusion

I grant the landlord a monetary award of \$584.45 plus recovery of the \$50.00 filing fee.

There will be a monetary order in the amount of \$634.45 against the tenants jointly and severally.

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: September 25, 2014

Residential Tenancy Branch

