



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, RPP, FF

Introduction

This hearing dealt with two related applications. One was the tenant's application for a monetary order and an order for return of personal property. The other was the landlord's application for a monetary order and an order permitting retention of the security deposit in partial satisfaction of the claim.

Although the tenant had been served with the landlord's application for dispute resolution and notice of hearing by registered mail deemed delivered five days after it was mailed on July 30, 2014 and she was the applicant on her own claim, the tenant did not appear.

As the tenant did not appear at the hearing her claim is dismissed without leave to re-apply.

Issue(s) to be Decided

Is the landlord entitled to a monetary order and, if so, in what amount?

Background and Evidence

This tenancy commenced January 1, 2013 as a one year fixed term tenancy. At the end of the term the parties agreed to a new six month fixed term tenancy. The tenant moved out of the unit, with the consent of the landlord, on July 9, 2014. Throughout the tenancy the monthly rent was \$650.00 due on the first day of the month. The tenant paid a security deposit of \$325.00.

A move-in inspection was conducted and a move-in condition inspection report was completed on December 30, 2012.

A move-out inspection was conducted and a move-out condition inspection report was completed on July 10, 2014. Both the landlord and the tenant signed the report.

The move-out report noted three damaged or missing items. The missing items were a shower curtain and a light lens. The value of these items was \$11.17 and \$11.02 respectively.

The rental unit had a 3-in-1 kitchen unit. The refrigerator portion of the unit was damaged when an occupant of the unit used a knife to defrost the refrigerator. In doing so he cut the cooling tube. The landlord testified that he took the unit to two appliance shops, both of whom told him it was cheaper to buy a new unit than to try to repair the old one.

The replacement cost of the unit, including tax, is \$996.78. The unit was four years old.

Analysis

On any claim for damage or loss the party making the claim must prove, on a balance of probabilities:

- that the damage or loss exists;
- that the damage or loss is attributable solely to the actions or inaction of the other party; and,
- the genuine monetary costs associated with rectifying the damage.

In a claim by a landlord for damage to property, the normal measure is the cost of repairs or replacement cost (less an allowance for depreciation), whichever is lesser. The Residential Tenancy Branch has developed a schedule for the expected life of fixtures and finishes in rental units. This depreciation schedule is published in *Residential Tenancy Branch Guideline 40: Useful Life of Building Elements* and is available on-line at the Residential Tenancy Branch web site.

The expected useful life of a refrigerator or a stove in a rental unit is fifteen years; which means the depreciation rate to be applied to the 3-in-1 unit is 26.67%. Accordingly I award the landlord the sum of \$730.94 for this item.

I also award the landlord the sum of 22.19 for the missing shower curtain and light lens.

I find that the landlord has established a total monetary claim comprised of damages in the amount of \$753.13, as detailed above, and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the deposit of \$325.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$478.13.

Conclusion

A monetary order in favour of the landlord has been made. 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: September 16, 2014

Residential Tenancy Branch

