



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

<u>Dispute Codes</u>	Tenant MNDC, MNSD, FF
	Landlord MND, MNDC, MNSD, FF

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlords and the Tenant.

The Landlords filed seeking a monetary order for compensation for damage to the unit site or property, for damage or loss under the Act, the regulations or the tenancy agreement, to retain the Tenant's security and pet deposits and to recover the filing fee for this proceeding.

The Tenant filed seeking a monetary order for compensation for damage or loss under the Act, the regulations or the tenancy agreement, for the return of the Tenant's security and pet deposits and to recover the filing fee for this proceeding.

Service of the hearing documents by the Landlords to the Tenant were done by personal delivery on May 8, 2014, in accordance with section 89 of the Act.

Service of the hearing documents by the Tenant to the Landlords were done by registered mail on June 10, 2014 in accordance with section 89 of the Act.

The Tenant and the Landlords confirmed that they had received the other party's hearing packages.

Issues to be Decided

Landlord:

1. Are there damages to the unit, site or property and if so how much?
2. Are the Landlords entitled to compensation for the damages and if so how much?
3. Are there damages or losses to the Landlords and if so how much?
4. Are the Landlords entitled to compensation for damage or loss and if so how much?
5. Are the Landlords entitled to retain the Tenant's security and pet deposits?

Tenant:

1. Are there damages or losses to the Tenant and if so how much?
2. Is the Tenant entitled to compensation for loss or damage and if so how much?
3. Is the Tenant entitled to the return of the security and pet deposits?

Background and Evidence

This tenancy started on May 1, 2013 as a fixed term tenancy for 1 year with an expiry date of May 1, 2014. Rent was \$1,400.00 per month payable on the 1st day of each month. The Tenant paid a security deposit of \$700.00 on April 4, 2013 and a pet deposit of \$200.00 on August 30, 2013.

The Landlords said the tenancy ended on April 30, 2014 and they completed a move out condition inspection on April 30, 2014. During that inspection the Landlords discovered the laminate flooring in the kitchen and hall way had been damaged. The Landlord continued to say the flooring looked like water had got into the flooring and opened up the joints between the boards. The Landlords submitted a quote by a contractor to replace the flooring and in that letter the contractor says the damage was caused by excessive water on the floor. The Landlord said the flooring was indicated as good on the move in condition inspection report completed on May 1, 2013. As a result the Landlord said they are claiming \$1,976.80 the quoted amount to replace the flooring.

On questioning the Landlord said they had purchased the unit in 2006 and the flooring was in the unit at that time. The Landlord said they did not know how old the flooring was but it could be 15 years old.

The Tenant said the flooring in the kitchen had gaps between the boards when they moved in and the Tenant's boyfriend offered to repair the floor for the Landlords. As a result the Tenant said she did not damage the floors and the replacement of the floor is not her responsibility. The Tenant did agree that the floors were marked as good on the move in condition inspection report dated May 1, 2013. The Tenant said she was new at renting and did not understand the importance of the condition inspection reports. The Tenant continued to say the roof leaked in June, 2013 and the Landlord had to replace the roof which was done in July, 2013. The Landlord agreed they replaced the roof in July, 2014 as general maintenance as the roof was old and needed replacing. The Landlord say the Tenant did not call them with complaints of the roof leaking and the Landlords submitted a letter from the roofer that says the roofer did not find any evidence of water ingress or water damage under the roof. The Tenant said she spoke to the roofer and he told her there was water leakage through the roof. The Tenant did not submit any written evidence to support her position.

The Tenant continued to say that because of water leaking into the basement in April, 2014 her daughter's box spring was damaged so she is claiming \$350.00 as damages. The Tenant did not submit any evidence to support the claim other than a picture of the box spring.

Further the Tenant said she is also claiming the return of her security deposit and pet deposit in the total amount of \$900.00 as well as the registered mail and photo processing costs in the amount of \$62.96.

Both parties also said they are requesting the recovery of the filing fee for their applications.

The Tenant said in closing that she is not responsible for the floor as it was damaged at the start of the tenancy, it was old flooring and she did not have any flooding in the kitchen except when the roof leaked.

The Landlords had no additional comments in closing.

Analysis

The Act says: Landlord and tenant obligations to repair and maintain

Section 32 (1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) 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.

(4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

Policy Guideline 40: Useful life of building elements

This policy guideline estimates the useful economic life of a rental building and the elements of the rental unit. With regard to flooring; carpets have a useful life expectancy of 10 years and hard wood flooring has a useful life expectancy of 20 years. Laminate flooring is not specifically mentioned in the policy guideline and as it is more durable than carpet and has a shorter lifespan than hardwood flooring; I find that the life expectancy of laminate flooring is 10 to 15 years.

In this situation the Landlords agreed that the flooring is 10 to 15 years old and they have are doing need upgrades to the rental unit, like replacing the roof because of the age and maintenance of the unit. Consequently, I find that the laminate flooring in the kitchen and hall way was at the end of its economic life therefore even if the Tenant had damaged the floor it does not make the Tenant responsible for the **replacement** of the flooring. I dismiss the Landlord's claim that the Tenant is responsible for the cost of the laminate flooring as the flooring was at the end of its economic life. As the Landlord has not included any other damage claims in their application I dismiss the Landlords' application without leave to reapply.

For a monetary claim for damage of loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

With regard to the Tenants damage claim of \$350.00 for water damage to her daughter's box spring the Tenant has not provided any corroborating evidence to proof the box spring was damaged in April, 2014 at the rental unit. There is no written evidence that a leak or flood occurred in the basement of the rental unit and the Tenant has not prove an actual loss by providing paid receives for a replacement box spring. Consequently I dismiss the Tenant's claim of \$350.00 for damages.

Further the Tenant has claimed \$62.96 for registered mail costs and photo developing for the hearing. These costs are attributed to the hearing costs not to the tenancy and therefore are not illegible claims. I dismiss without leave the hearing preparation costs of \$62.96.

With respect to the Tenants security and pet deposits I order the Landlord to handle the deposits as stated in the Act and return the deposits within 15 days of receiving this decision.

As the Landlord was unsuccessful in this matter I order the Landlord to bear the \$50.00 cost of the filing fee for their application that they have already paid.

As the Tenant was only partially unsuccessful in this matter I order the Tenant to bear the \$50.00 cost of the filing fee for her application that she has already paid.

Conclusion

The Landlords' application is dismissed without leave to reapply.

The Tenant's damage claims are dismissed without leave to reapply.

The Landlord is ordered to return the Tenant's security and pet deposits forthwith.

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 09, 2014

Residential Tenancy Branch

