



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding K. Reimer Holding Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MND, MNDC, MNSD, FF
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Introduction

This hearing concerns 2 applications: i) by the landlord for a monetary order as compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of all or part of the security deposit / and recovery of the filing fee; and ii) by the tenants for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / compensation reflecting the double return of the security deposit / and recovery of the filing fee.

Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether either party is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to written tenancy agreements, copies of which are not in evidence, the parties testified that the original fixed term tenancy was from June 01, 2012 to June 01, 2013; and the second fixed term tenancy was from June 01, 2013 to June 01, 2014. Monthly rent of \$1,100.00 was due and payable in advance on the first day of each month, and a security deposit of \$550.00 was collected. While a move-in condition inspection report was completed with the participation of both parties, documentary evidence includes only 1 page (the last page) of what is a 4 page document.

Following notice given by the tenants, tenancy effectively ended at the end of the fixed term on June 01, 2014. The parties agree that the tenants provided a forwarding address by way of email sometime during the final month of tenancy. A move-out

condition inspection report was completed at the end of tenancy with the participation of the landlord and a representative of the tenants.

The landlords filed an application for dispute resolution on June 04, 2014, and the tenants' application was later filed on July 24, 2014.

Analysis

The particular attention of the parties is drawn to the following sections of the Act:

Section 23: **Condition inspection: start of tenancy or new pet**

Section 24: **Consequences for tenant and landlord if report requirements not met**

Section 35: **Condition inspection: end of tenancy**

Section 36: **Consequences for tenant and landlord if report requirements not met**

Further, section 37 of the Act addresses **Leaving the rental unit at the end of a tenancy**, in part:

37(2) When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and....

Based on the documentary evidence and affirmed testimony of the parties, the various aspects of the respective applications and my related findings are set out below.

LANDLORDS

\$157.50: (\$150.00 + \$7.50) *carpet cleaning + tax*

The tenants claim that they spent \$175.00 for professional carpet cleaning in the unit towards the end of tenancy. While there is no receipt in evidence, the tenants have submitted an email from the service provider dated June 30, 2014, in which she states:

Carpets steam cleaned & deodorized May 21 / 2014.

Carpets were generally in good condition, showing signs of traffic wear in areas in front of where sofa was situated in the living room.

I do not recall any major stains that stood out, that I would not consider general wear & tear.

Despite the above, the landlords claim that the carpet remained in need of professional carpet cleaning after the tenants had vacated the unit, and a paid invoice has been submitted in evidence. The invoice issued by the landlords' service provider states:

Carpets were heavily soiled and the 2nd bedroom had a bright pink stain that was unable to be removed. All carpet required deep carpet steam clean. Upon site inspection it was obvious from our professional opinion that the carpets were never cleaned. Carpets were heavily soiled in traffic areas and required thorough cleaning. There were also numerous pressure holes in the carpet from sharp objects that were not able to be removed.

I find on a balance of probabilities that the landlords have established entitlement to **\$78.75**, or half the amount claimed.

\$52.50: (\$50.00 + \$2.50) *bathtub stain removal + tax*

The landlords testified that there is no mention of the bathtub stain on the move-out condition inspection report, and the tenants claim the stain "has always been there due to hard water." Again, as previously noted, a complete copy of the move-in and move-out condition inspection reports is not in evidence and, in the result, a full accounting of comparative results is not before me. Accordingly, this aspect of the application is hereby dismissed.

\$204.75: (\$195.00 + \$9.75) *weekend service call / site inspection + tax*

As the landlords' application for costs arising from carpet cleaning has been allowed in part, and the application for costs related to removal of the bathtub stain by this same service provider has been dismissed, I find that the landlords have established entitlement limited to **\$100.00**.

\$1,151.78: *estimated cost of carpet replacement in 2 bedrooms*

Residential Tenancy Policy Guideline # 40 speaks to the "Useful Life of Building Elements," and provides that the "useful life" of carpet is 10 years.

The landlords testified that carpets were new at the start of this tenancy, and the tenancy lasted 2 years. Again, I note the narrative concerning the condition of the

carpets provided on the invoice submitted in evidence by the landlords and previously referenced above. Carpets have not presently been replaced. On balance I find that the landlords have established entitlement to compensation reflecting the diminished value of the carpets in the limited amount of **\$200.00**.

\$50.00: *filing fee*

As the landlords have partially succeeded with the principal aspects of their application, I find that they have also established entitlement to recovery of the full filing fee.

Total: \$428.75 (\$78.75 + \$100.00 + \$200.00 + \$50.00)

TENANTS

\$1,100.00: *(2 x \$550.00) double return of security deposit*

Section 38 of the Act addresses **Return of security deposit and pet damage deposit**. In part, this section provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit, or file an application for dispute resolution. If the landlord does neither, section 38(6) of the Act provides that the landlord may not make a claim against the security deposit, and must pay the tenant double the amount of the security deposit.

In this tenancy a forwarding address was provided in May 2014, and tenancy later ended on June 01, 2014. Subsequently, the landlords filed an application for dispute resolution on June 04, 2014, which I find is within the statutory 15 day period identified in section 38 of the Act. In the result, I find that the doubling provisions of the Act do not apply, and this aspect of the tenants' application is therefore dismissed.

\$196.00: *reimbursement of cost for installation of bathroom light & bath fan timer*

The tenants have submitted an undated receipt in evidence. The landlords are unable to recall that the tenants were instructed to carry out any such work, as costs for renovation of the unit, including bathroom fan and light installation, were paid for by the landlords. Further, there is no documentary evidence of any communication between the parties about this matter during the term of tenancy. In summary, I find that the tenants have failed to meet the burden of proving entitlement to this aspect of their claim, and it is hereby dismissed.

\$459.00: (12 x \$38.25) *loss of wages*

Male tenant "TB" claims that his loss of wages arises from time required to prepare for the hearing, in addition to attendance at the hearing itself.

Section 72 of the Act addresses **Director's orders: fees and monetary orders**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, this aspect of the application is hereby dismissed.

\$50.00: *filing fee*

As the tenants have not succeeded with the principal aspects of their application, the application to recover the filing fee must also be dismissed.

Total: Nil

Conclusion

Offsetting the respective entitlements I find that the landlords have established a net claim of **\$428.75**. I order that the landlords retain this amount from the tenants' security deposit of **\$550.00**, and I order the landlords to repay the balance of **\$121.25** to the tenants (\$550.00 - \$428.75) by not later than **October 31, 2014**.

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: October 09, 2014

Residential Tenancy Branch

