



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, 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").

The Landlord applied on June 10, 2014 for:

1. An Order to retain all or part of the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant applied on July 7, 2014 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.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Are the Tenants entitled to return of the security deposit?

Background and Evidence

The tenancy of a four bedroom house started in October 2011 and ended on May 31, 2014. At the outset of the tenancy the Landlord collected \$900.00 as a security deposit and \$900.00 as a pet deposit. No move-in inspection was conducted. The Tenant provided its forwarding address on June 3, 2014.

The Landlord states that the Tenant left the unit unclean and claims the costs of cleaning in the amount of \$238.87. The Landlord provided photos and an invoice for the cleaning. The Landlord also provided an additional estimate for a "partial" move out clean in the amount of \$119.70. The Tenant states that the unit was cleaned at move-out to a reasonable state. The Tenant states that the unit had not been professionally cleaned at move-in. The Tenant provided photos.

The Parties agree that the Tenant left one bedroom with wall stains that could not be removed. The Landlord states that the Tenant also left many holes on the wall and that a mirror frame was left with pieces of the paint pulled off. The Landlord claims \$871.50 based on an estimate of the cost to paint the room. The Landlord states that this work has not been completed as the Landlord is living in the unit and does not have the financial means. The Tenant states that the holes are tiny and from tacks. The Tenant does not dispute a cost of \$250.00 for the painting of the room.

The Landlord states that the Tenant left a carpet unclean and stained. The Landlord states that its own steam cleaning machine was used to clean the carpet but that the smells of animal urine could not be removed. The Landlord states that they are also considering replacing the carpet due to the odors. The Landlord claims the cost of steam cleaning in the amount of \$105.00 and the cost of replacing the carpet in the amount of \$491.71. The Landlord states that the carpet has not been replaced yet and cannot recall when the carpet was bought. The Tenant states that the carpet was very old and was stained at move-in. The Tenant states that the carpet is only 2' by 3' and does not dispute the amount of \$50.00 for the damages.

The Landlord states that the Tenant left a broken curtain rod bracket and claims \$15.00. The Landlord has not replaced this bracket. The Tenant states that no bracket was ever noticed to be broken either at move-in or during the tenancy.

The Landlord states that costs were incurred to print off materials for the dispute and claims \$123.72.

Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results.

Although the Tenant states that the unit was cleaned to a reasonable degree and I note the Tenant's photos that show a neat and clean unit, I also consider that a few of the Landlord's photos show grime on some parts of the flooring, indicating that the floors were not left reasonably clean. Considering the photos of each Party, I find that the Landlord has substantiated that some extra cleaning was required to bring the unit to a reasonable state but not to the extent claimed. Noting the Landlord's provision of an estimate for a "partial cleaning", I find that the Landlord has substantiated only a nominal amount of **\$100.00** for the costs of cleaning the unit.

Considering that the costs claimed to paint the walls are based on only one estimate and appear to be high, I find that the Landlord failed to take reasonable steps to mitigate the amount of costs claimed. Given that the Tenant has agreed to a cost of **\$250.00**, I find that the Landlord has only substantiated this amount.

Given that the Landlord did not provide any evidence of the age of the carpet and considering the Tenant's evidence of size, age and previous damage, I find that the Landlord has not substantiated on a balance of probabilities that the carpet held much, if any value. Given the Tenant's agreement for costs in the amount of **\$50.00** I find that the Landlord has only substantiated this amount and I dismiss the greater amounts claimed for the cleaning or replacement of the carpet.

Given the lack of a move-in condition report and considering the Tenant's evidence of no knowledge of any broken bracket, I find that the Landlord has not substantiated on a balance of probabilities that the Tenant caused this damage and I dismiss the claim for replacement costs.

As the Act does not provide for the recovery of any costs associated with the dispute resolution process other than the filing fee, I dismiss the claim for printing costs. As the Landlord's entitlement leaves an amount owed to the Tenant, and as each Party was only partially successful with their applications, I decline to award recovery of either filing fees.

I order the Landlord to retain **\$400.00** from the combined security and pet deposit of \$1,800.00 plus zero interest and to return the remaining amount of **\$1,400.00** to the Tenants forthwith.

Conclusion

I Order the Landlord to retain the amount of \$400.00 from the security deposit plus interest in the amount of \$1,800.00 in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for the amount of **\$1,400.00**. 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: October 17, 2014

Residential Tenancy Branch

