



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damages to the unit - Section 67;
2. An Order to retain the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions under oath.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started on April 15, 2012 and ended on May 31, 2014. At the outset of the tenancy the Landlord collected \$895.00 as the security deposit. The Parties mutually conducted a move-in and move-out inspection with completed reports.

The Landlord states that the Tenant left nail holes and scratches on the walls of the unit and claims \$421.12 for the repair of the damages. The Landlord provided an invoice and photos. The Landlord states that he does not know what kind of nails made the holes and it is noted that the photos do not provide context for the size of the holes.

The Tenant states that the majority of the holes were from hanging pictures and that this was done with picture hanging nails. The Tenant agrees that the wall was scratched by the Tenants.

Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit 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. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established.

Holes left from hanging pictures on the walls falls within reasonable wear and tear of a unit. Given the Tenant's evidence of holes from hanging pictures and considering that the photos do not show the size of the holes to be larger than from those of hanging pictures, I find that the Landlord has not met the burden of proof in relation to the claim for the holes on the walls. Given that the Tenant did acknowledge leaving scratches to one wall, I find that the Landlord has substantiated a nominal entitlement of **\$100.00** for the costs to repair the scratches. As the Landlord has had only nominal success I decline to award recovery of the filing fee. Deducting the entitlement from the security deposit of \$895.00 plus zero interest leaves **\$795.00** to be returned to the Tenant forthwith.

Conclusion

I Order the Landlord to retain the amount of \$100.00 from the security deposit plus interest in the amount of \$895.00 in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for the amount of **\$795.00**. 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 06, 2014

Residential Tenancy Branch

