



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BROWN BROS. AGENCIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Code MND, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for damages to the unit and an order to retain the security deposit in partial satisfaction of the claim.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the landlord entitled to monetary compensation for damages?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The parties entered into a fixed term tenancy which began on May 1, 2011 and was to expire on April 30, 2012. The tenancy continued on a month-to-month basis thereafter. Current rent in the amount of \$760.00 was payable on the first of each month. A security deposit of \$372.50 was paid by the tenant. The tenancy ended on June 30, 2014.

The landlord claims as follows:

a.	2 broken bi-fold doors	\$ 185.00
b.	Paint – black height markers	\$ 50.00
c.	Curtain rod repair/rehang	\$ 20.00
d.	Carpet cleaning	\$ 147.00
e.	Cleaning of rental unit	\$ 175.00
f.	Filing fee	\$ 50.00
	Total claimed	\$ 627.00

2 broken bi-fold doors

At the outset of the hearing, the tenant agreed that they are responsible for the cost of the 2 broken bi-fold doors.

Paint – black height markers

At the outset of the hearing, the tenant agreed that they are responsible for the cost of the paint to cover the black markers that they should have not used on the wall.

Curtain rod repair

The landlord's agent testified that the tenant damaged the wall, when they removed the curtain rod. The agent stated that the building repair person had to repair the wall and rehang the curtain rod. The landlord seeks to compensation for making the repair in the amount of \$20.00.

The tenant testified he does not deny he removed the curtain rod. The tenant stated all that was required was for the cup holders for the wood rod to be reinstalled.

Carpet cleaning

The landlord's agent testified that the tenant failed to clean the carpets at the end of the tenancy. The landlord seeks to recover the amount of \$147.00.

The tenant testified that they did not clean the carpets at the end of the tenancy. The tenant stated he believed he had an agreement for the landlord to retain the security to settle all matters relating to the deficiencies.

The landlord's agent stated there was no agreement.

Cleaning of rental unit

The landlord's agent testified that the tenant failed to clean the stove, which took 3 hours to clean. The agent stated that the windows also took 3 hours to clean and the cupboards and curtains needed to be washed and rehanged. The landlord seeks to recover the total amount of \$175.00. Filed in evidence are photographs.

The tenant acknowledged that these items were not cleaned at the end of the tenancy. The tenant stated there are only one window and one sliding door in the rental unit.

The landlord's agent stated she is unsure as to how it took three hours to clean the windows but mostly the window tracks.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities.

To prove a loss and have one party pay for the loss requires the claiming party to prove four different elements:

- Proof that the damage or loss exists;
- Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act or agreement;
- Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
- Proof that the Applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Under section 37 of the Act, the tenant is required to return the rental unit to the landlord reasonably clean and undamaged, except for reasonable wear and tear. Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

2 broken bi-fold doors

At the outset of the hearing the tenant agreed that they are responsible for the 2 broken bi-fold doors. Therefore, I find the landlord is entitled to recover the cost of the doors in the amount of **\$185.00**.

Paint – black height markers

At the outset of the hearing the tenant agreed that they are responsible for the paint. Therefore, I find the landlord is entitled to recover the cost of the paint in the amount of **\$50.00**.

Curtain rod repair

In this case, the tenant acknowledged removing the curtain rod and not replacing the curtain rod at the end of the tenancy. I find the tenant breached the Act, when they failed to reinstall the curtain rod and this caused losses to the landlord. Therefore, I find the landlord is entitled to compensation for repairing and installing the curtain rod, in the amount of **\$20.00**.

Carpet cleaning

Under the Residential Tenancy Policy Guideline 1, which clarifies the rights and responsibilities of the parties for the premises under the Act, the tenant is generally expected to clean the carpets if vacating after a tenancy of one year.

The tenant acknowledged they did not clean the carpets, I find the tenant breached the Act, when they failed to clean the carpets and this caused losses to the landlord. Therefore, I find the landlord is entitled to compensation for cleaning the carpets in the amount of **\$147.00**.

Cleaning of rental unit

Under the Residential Tenancy Policy Guideline 1, the tenant is expected to clean the all the appliances, cupboards, windows and window coverings at the end of the tenancy.

In this case, the tenant acknowledged they did not clean these items, I find the tenant breached the Act, when they failed to clean the above said items.

While I am satisfied with the cost of cleaning for the stove, cupboards, and curtains, I am not satisfied that it took the landlord's cleaner 3 hours to clean 1 window and 1 siding door, as that seems unreasonable even if there was some mould in the tracks as depicted in the photograph. As result, I dismiss the landlord claims for window cleaning. Therefore, I find the landlord is entitled to compensation for cleaning in the amount of **\$115.00**

I find that the landlord has established a total monetary claim of **\$567.00** comprised of the above described amounts and the \$50.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$372.50** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$194.50**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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: December 16, 2014

Residential Tenancy Branch

