



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding First United Church Social Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNR, MND, MNDC, MNSD, FF

Introduction

This hearing concerns the landlord's application for a monetary order as compensation for unpaid rent / compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for the tenancy which began on November 01, 1998. Monthly rent was due and payable in advance on the first day of each month. Towards the time when tenancy ended, monthly rent was \$460.00. A security deposit of \$300.00 was collected near the start of tenancy, and a move-in condition inspection was completed with the participation of both parties.

On October 31, 2014 the tenant gave notice to end tenancy effective November 30, 2014. However, unit keys were not given to the landlord until December 17, 2014, at which time a move-out condition inspection report was completed with the participation of both parties. The tenant provided her forwarding address on the move-out condition inspection report, and the landlord's application for dispute resolution was then filed on December 30, 2014. New renters were found effective from January 01, 2015.

The main thrust of the landlord's application is around recovery of costs arising from various cleaning and repairs required in the unit following the end of tenancy. The

tenant disputes the landlord's claim, and takes the position that cleaning and repairs are the result of reasonable wear and tear during the tenancy.

Analysis

At the outset, the attention of the parties is drawn to section 32 of the Act which speaks to **Landlord and tenant obligations to repair and maintain**:

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.

Further, the attention of the parties is drawn to section 37 of the Act which speaks to **Leaving the rental unit at the end of a tenancy**:

37(1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.

(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
- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

Based on the testimony of the parties and the documentary evidence, which includes but is not limited to, photographs taken within the unit, the various aspects of the landlord's application and my related findings are set out below.

\$614.88: *unpaid rent to December 31, 2014 & cost of miscellaneous past repairs etc.*

During the hearing the landlord withdrew this aspect of the application.

\$200.00: *cleaning*

This cost is calculated on the basis of 8 hours x \$25.00 per hour. Based principally on the comparative results of move-in and move-out condition inspection reports and photographs taken within the unit at the end of tenancy, I find that the landlord has established entitlement to the full amount claimed. Specifically, I find that cleaning required in the unit was in excess of what would be required had the unit been left "reasonably clean."

\$231.00: *repair to patio door*

The landlord testified that this cost has been incurred for repairs (labour, material & tax) to the patio door as a result of 2 nails being affixed to the top of the door, apparently in order to hang a curtain. The "damaged patio door with nails" is noted on the move-out condition inspection report. While the landlord claims that the tenant was instructed not to affix nails or screws to the door, the tenant disputes this, and there is no documentary evidence to support the landlord's claim that such instructions were given to the tenant. In the result, I find that the landlord has established entitlement limited to **\$75.00**.

\$1,355.20: *countertop replacement*

The landlord testified that the countertop was replaced in 2010, and that as a result of water damage caused by the tenant it must again be replaced. The landlord testified, however, that the replacement has not presently been undertaken and the cost identified reflects a quote. In consideration of reasonable wear and tear incurred during

the course of 4 years (2010 to 2014), in combination with what I find is damage beyond reasonable wear and tear, I find that the landlord has established entitlement reflecting the diminished value of the countertop in the amount of **\$300.00**.

\$670.88: *cooktop replacement*

The landlord testified that the cooktop was previously replaced in 2010. In any event, the cooktop has again been replaced and the cost claimed has been incurred. Similar to my findings set out immediately above, in consideration of reasonable wear and tear, in combination with what I find is damage beyond reasonable wear and tear, I find that the landlord has established entitlement to compensation limited to **\$250.00**.

\$50.00: *filing fee*

As the landlord has achieved a measure of success with this application, I find that the landlord has established entitlement to recovery of the full filing fee.

Sub-total entitlement: \$875.00

I order that the landlord retain the tenant's security deposit of \$300.00, plus interest accrued of \$34.52 [**total: \$334.52**], and I grant the landlord a **monetary order** for the balance owed of **\$540.48** (\$875.00 - \$334.52).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$540.48**. Should it be necessary, this order may be served on the tenant, 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: March 30, 2015

Residential Tenancy Branch

