



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for a monetary order for damage to the unit, site or property; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenants for the cost of the application.

The landlord attended with a translator, who was affirmed to well and truly interpret the proceedings from the English language to the landlord's first language, and from the landlord's first language to the English language. One of the tenants also attended, representing both named tenants. The parties each gave affirmed testimony and were given the opportunity to question each other on the evidence and testimony provided, all of which has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenants for damage to the unit, site or property?
- Has the landlord established a monetary claim as against the tenants for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?
- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord testified that this month-to-month tenancy began on September 1, 2013 and ended on February 1, 2015. Rent in the amount of \$1,800.00 per month was payable in advance on the 1st day of each month and there are no rental arrears. The landlord purchased the rental property in April, 2014 and the tenant was already a tenant of the rental unit. The previous owner had collected a security deposit from the tenant in the amount of \$850.00 which is currently held in trust by the landlord. A copy of the tenancy agreement has been provided.

The landlord further testified that a move-in condition inspection report was completed at the commencement of the tenancy and a copy was provided to the landlord by the previous owner. The landlord and both tenants participated in a move-out condition inspection on February 1, 2015 and a report has been provided for this hearing. Also, the tenancy agreement provides that specific costs at move-out apply to carpet cleaning, blind cleaning, and light bulbs. When the tenant gave the landlord a notice to end the tenancy, the landlord gave the tenant a checklist for cleaning. A copy of the checklist has also been provided showing a signature of one tenant and the landlord.

The tenants did not leave the rental unit reasonably clean and undamaged, and the landlord claims the following:

- \$275.00 for cleaning, \$155.00 carpet cleaning, and \$150.00 blind cleaning. The oven wasn't clean – food stains remained; brown spots on blinds; carpets were not vacuumed; the fridge was not cleaned; drawers and cupboards had food stains;
- \$450.00 for painting – the landlord is not claiming for the walls showing painting was required at the beginning of the tenancy, only the walls that are not mentioned at move-in as requiring painting, being outside the bathroom, the hallway, kitchen, bedroom. The tenants re-painted during the tenancy but colors are mis-matched and needs repainting. Also, a towel rack had come off leaving a hole in the bathroom wall and the tenants repaired it but it needs to be done again. There are also picture holes left throughout. The landlord sent photographs to a painter of 3 damaged walls in the kitchen, hall, bedroom and bathroom and got the estimate over the phone;
- \$175.00 for replacing floor tiles in the entry that contain deep scratches. The landlord got an estimate from a contractor over the phone;
- \$275.00 for light bulbs, being \$25.00 for each of 11 that were either burned out or missing at the end of the tenancy. The tenancy agreement specifically states \$25.00 each, and some are specialty bulbs.

The landlord has also provided a Monetary Order Worksheet claiming those amounts as well as photographs and testified they were taken on February 1, 2015. The parties had discussed the security deposit at move-out and the tenant spoke to a cleaning company, but they never showed up, and the tenants didn't clean the rental unit at all. The tenant agreed in a text message later that the landlord should keep \$100.00 of the

security deposit. There were damages found after move-out as well that were not noted on the move-out condition inspection report.

The landlord received the tenant's forwarding address in writing on February 14, 2015.

The rental unit has not been re-rented, and the landlord does not reside in it but moved some personal belongings into the rental unit on February 15, 2015. Since the tenant moved out, only basic cleaning has been done; the rest of the repairs have not been completed.

The tenant testified that the carpet was not left unclean at the end of the tenancy. Nothing in the move-out condition inspection report mentions dirty carpets, and they were clean.

The tenant had arranged for a cleaning company but they didn't show up. The bill was going to be \$60.00 so the tenant had to clean the rental unit. The tenant asked the landlord for receipts for cleaning, but none were received.

The tenant agrees to holes in the living room wall, but not in the kitchen, hall or bathroom, but has not looked at the photographs provided by the landlord.

The tenant further testified that the only missing light bulbs were in the living room and another in the kitchen.

Analysis

In order to be successful in a claim for damages, the onus is on the claiming party to satisfy the 4-part test:

1. That the damage or loss exists;
2. That the damage or loss exists as a result of the other party's failure to comply with the *Act* or the tenancy agreement;
3. The amount of such damage or loss; and
4. What efforts the claiming party made to mitigate, or reduce such damage or loss.

The *Residential Tenancy Act* also states that the move-in and move-out condition inspection reports are evidence of the condition of the rental unit at the commencement and end of the tenancy.

I am satisfied that the landlord has satisfied element 4, in that the landlord provided the tenant with a checklist for cleaning once the tenant gave notice to vacate the rental unit. I also note that the tenancy agreement states: "(15) Condition of Premises: ...If the

carpets and window coverings are professionally cleaned at the start of the tenancy, the tenant will pay for professional cleaning at the end of the tenancy. No structural alterations, painting, redecorating or driving of nails, screws or tacks in walls, floors or woodwork shall be done without the written consent of the landlord."

And: "(26) Carpets: The Tenant, at the Tenant's expense will have a professional carpet cleaning company clean the carpet at the end of a tenancy and annually if requested by the landlord. The Tenant will provide a valid receipt for this service. Failure to do so will result in the tenant being charged for the carpet cleaning and a service fee of \$50."

And, "(37) End of Tenancy Maintenance: The Tenant agrees that they will ensure all lights in the property are working at the time of the move-out condition report. Failure to do so will result in a \$25 per light bulb replacement fee. In addition, the Tenant agrees that should the property not be in the same cleanliness as was reported in the move-in condition report, the landlord can charge the tenant for cleaning costs and a service fee of \$50.00 based on the time needed to restore the property to the filed condition. The facilitating of Services that have not been completed by the Tenant will be charged to the tenant's expense at a rate of \$50/hour."

The tenancy agreement also contains a term respecting window coverings that the tenant will have blinds cleaned professionally as recommended by the landlord annually and at the end of the tenancy.

The *Act* requires a tenant to leave a rental unit reasonably clean and undamaged at the end of the tenancy, not to leave the rental unit in the pristine condition a landlord might want in order to re-rent or move into or sell.

I have reviewed the move-in and move-out condition inspection reports and find that the rental unit required cleaning at the end of the tenancy, which was the responsibility of the tenant. The tenant testified that the cleaning company, who didn't show up, had advised that the bill would be \$60.00. The landlord claims \$275.00, and at \$50.00 per hour as stated in the tenancy agreement, that would amount to 5.5 hours. Judging on the move-out condition inspection report, which shows walls, doors, all kitchen appliances, the washer and dryer, windows and screens, and bathroom were all left dirty, I am satisfied that the landlord is entitled to the claim of \$275.00 for cleaning.

With respect to carpet cleaning, I am satisfied that the tenant did not have the carpets cleaned before vacating the rental unit, and the tenancy agreement specifically states that the tenant will be charged for the cleaning and a service fee of \$50.00. The

landlord has not provided any evidence of the actual cost for professional services, and therefore, I find that the landlord has established a cost of \$50.00.

With respect to blind cleaning, the landlord has not provided any evidence of the cost associated with that service, and I decline to order any recovery.

With respect to painting the rental unit, the tenant agrees that some of the wall damage occurred during the tenancy and the move-in condition inspection report confirms that the walls in the living room required painting at the commencement of the tenancy. The landlord has provided a dollar amount, which was an estimate, received over the phone by a contractor. Estimates can be very useful in such a claim however it is important to provide evidence of the integrity of the estimate claimed in order to satisfy element 3 in the test for damages, such as a written copy of an estimate. Therefore, the landlord's claim for painting cannot succeed.

I find similarly that the landlord has failed to satisfy element 3 in the test for damages respecting the \$175.00 claim for floor tiles.

I am satisfied that the entry and kitchen areas required bulbs and that the tenant agreed to \$25.00 per bulb, and the landlord has established a claim for \$50.00.

In summary, I find that the landlord has established a claim of \$275.00 for cleaning, \$50.00 for carpet cleaning, and \$50.00 for light bulbs, for a total of \$375.00.

Since the landlord has been partially successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee.

The landlord testified that the tenant's forwarding address was received in writing on February 14, 2015 and the tenant did not dispute that. The Landlord's Application for Dispute Resolution was filed on February 20, 2015, clearly within the 15 days as required by the *Act*.

I hereby order the landlord to keep \$425.00 of the \$850.00 security deposit and return the balance to the tenant.

Conclusion

For the reasons set out above, I hereby find that the landlord has established a claim as against the tenant in the amount of \$425.00, and I order the landlord to keep that

amount in full satisfaction of the landlord's claim, and return the balance of the \$850.00 security deposit to the tenant.

This order is final and binding and may be enforced.

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: April 25, 2015

Residential Tenancy Branch

