



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 dealt with a landlord's application for monetary compensation for damage to the rental unit and authorization to retain the security deposit in partial satisfaction of the claim against the tenant. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Issue(s) to be Decided

1. Has the landlord established an entitlement to compensation from the tenant for damage to the property in the amount claimed?
2. Is the landlord authorized to retain the security deposit?

Background and Evidence

The tenancy commenced in July 2013 and the tenant paid a security deposit of \$750.00. The tenancy ended in August 2014. The landlord prepared condition inspection reports although the landlord may not have given copies of the reports to the tenant in a manner that complies with the Act and the landlord had altered the move-out inspection report after it was signed by the tenant. The tenant provided a forwarding address to the landlord with her notice to end tenancy. The landlord filed this application on September 14, 2014.

It was undisputed that near the end of the tenancy, when the tenant was moving out and had furniture loaded into the back of a truck, damage was caused to the garage door due to the truck hitting the door or furniture falling from the back of the truck into the garage door. After the incident the tenant called a garage door company to the property to have the door cable realigned and make the door functional again.

The garage has a total of four horizontal panels. The two lowest panels are significantly damaged, one is minimally damaged and the top panel appears undamaged. It was undisputed that the replacing the entire garage door is more economical than replacing individual panels.

Both the tenant and the landlord acknowledge some responsibility to pay for a portion of the new garage door; however, the parties could not come to an agreement with respect to allocation of the replacement cost.

In filing this Application, the landlord requested compensation from the tenant in the sum of \$1,007.45 for damage to the garage door. This amount was calculated as \$1,332.45, being the estimated cost of removing and replacing the garage door less \$325.00 which the landlord agreed to absorb to reflect the age of the door at the time of the incident.

The landlord had obtained a quote of \$1,332.45 to remove and replace the door, which is a non-standard size, with the same type of door. The landlord provided the written estimate as evidence. During the hearing, I heard that the garage door was installed in mid-October 2014 at a lesser cost of \$1,155.00. The landlord explained that the savings related to disposal of the old door which the landlord and her husband did themselves; however, the landlord seeks to be compensated \$50.00 for their time, plus gas costs, to dispose of the damaged door.

The landlord submitted that she is prepared to absorb \$325.00 which is the 50% of the cost of the new door only but that the remainder of the costs, such as disposal of the old door, installation labour for the new door, and necessary parts should be the responsibility of the tenant entirely.

The landlord testified that the damaged door was approximately 10 years old but claimed that it was in very good condition. The landlord acknowledged that the Residential Tenancy Policy Guideline 40: *Useful Life of Building Elements* indicates that garage doors have an expected life of 10 years but that a former garage door on the house lasted over 30 years. In support of this position, the landlord submitted that the garage is used for storage only and was not opened frequently thus enabling a longer life span.

The tenant acknowledged responsibility for paying for a portion of the cost to replace the garage door to reflect the damage she caused but the tenant was of the position that \$400.00 was fair considering the age of the door.

The tenant had obtained a quote from a large home improvement retailer that was less than the estimate provided by the garage door company used by the landlord; but, during the hearing the tenant acknowledged that the quote the landlord obtained was reasonable given the garage door was not a standard height and required a custom door.

The tenant submitted that she had attempted to have vehicle insurance cover the costs of the damage but was unsuccessful since there was no damage to the truck involved in the incident. The tenant also stated she enquired about insurance coverage through her tenant's insurance but was informed her policy did not cover such damage. The tenant questioned whether the landlord went through her home owner's insurance policy. The landlord explained that she did

not make an insurance claim due to the deductible and increased premiums in comparison to a relatively small claim.

Analysis

Upon consideration of everything before me, I provide the following findings and reasons.

Under the Act, the tenant is responsible for repairing damage she caused even if the damage was accidental. The landlord paid to have the damage rectified and now seeks compensation from the tenant. Where a party seeks compensation from the other party, the party making the claim bears the burden to prove the following, based on the balance of probabilities:

1. That the other party violated the Act, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

In this case, it is undisputed that the tenant's actions, although accidental, caused damage to the rental unit and that the landlord paid to have the garage door replaced in order to rectify the damage. I am also satisfied the landlord has acted reasonably so as to minimize damages and loss. Therefore, I find the only issue to resolve in this case is the value of the landlord's loss.

Since awards are intended to be restorative, where damage necessitates the replacement of an item, it is appropriate to reduce the replacement cost by the depreciation of the item replaced. Both parties appeared to understand and accept this concept that the landlord's loss is the equivalent of the depreciated value of the damaged item; however, nature of this dispute surrounded the determination of the depreciated value.

Residential Tenancy Policy Guideline 40: *Useful Lives of Building Elements* provides for the expected useful life of various components of a building under normal circumstances. The policy guideline provides that garage doors have an expected life of 10 years; however, the policy guideline also provides that:

Items where the useful life is substantially different from the table

If the useful life of a building element is substantially different from what appears in the table, parties to dispute resolution may submit evidence for the useful life of a building element.

The landlord submitted that the garage was used for storage meaning the garage door was not opened frequently and was still in very good condition, and that the former garage on the property door lasted over 30 years. The tenant did not refute either of these contentions but maintained that there was some evidence of wear and tear on the door, which was over 10

years old, and given the policy guideline and the fact the garage door was 10 years old, her offer to pay \$400.00 for the damaged garage door was fair.

Since the garage was used for storage purposes I accept that the door was not subject to wear and tear of daily activity if it were used to park a vehicle. Also, in considering the photographs depict a garage door that was in good condition prior to the tenancy, I am satisfied that the garage door in this case had a longer expected life than the 10 years provided under the policy guideline. That being said, the issue becomes determining how much longer than 10 years was the door expected to have a useful life.

Although the landlord submitted that a former garage door on the property had lasted over 30 years, the former door would have been constructed more than 40 years ago and presumably using different construction methods and materials. I find the life span of the former door to be a less than an ideal comparison given the different construction materials and methods and considering:

1. The landlord acknowledged that due to the construction methods of the modern garage door it is more economical to replace a damaged door than repair it.
2. The landlord's willingness to absorb one-half of the cost of the door which implies that the landlord is of the position that the 10 year old door was half way through its expected life.

Considering all of the above, I find the best estimation as to the expected life of the garage door in the circumstances in which it was used to be approximately 20 years and I calculate the landlord's loss based upon that to be 50% of the replacement cost.

I reject the landlord's position that she should absorb only 50% of the replacement cost of the door itself since replacement of the door, including all of its components and installation costs, were to be expected in another 10 years based upon the door's expected life span of 20 years. Therefore, I find the landlord entitled to recover 50% of all of the costs associated to replacing the door, including disposition of the damaged door.

The cost of the installation of the new garage door cost was \$1,155.00 and I find it reasonable to add \$70.00 to this amount for the disposition of the damaged door, for a total cost of \$1,225.00. I find the landlord entitled to recover 50% of this amount from the tenant, or \$612.50. I further award the landlord one-half of the \$50.00 filing fee paid for this Application, of \$25.00. The landlord's total award is \$637.50.

Since the landlord is holding the tenant's \$750.00 security deposit, I authorize the landlord to deduct \$637.50 from the deposit and I order the landlord to return of the balance of \$112.50 to the tenant without delay.

Pursuant to Policy Guideline 17: *Security Deposits and Set-Off*, I provide the tenant with a Monetary Order in the amount of \$112.50 to ensure payment is made by the landlord.

Conclusion

The landlord has been authorized to deduct \$637.50 from the tenant's security deposit in resolution of this dispute and the landlord has been ordered to refund the balance of the security deposit to the tenant in the amount of \$112.50 without delay.

The tenant has been provided a Monetary Order in the amount of \$112.50 to serve and enforce if necessary.

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 30, 2015

Residential Tenancy Branch

