



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB, MND, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlords' Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by both landlords and the male tenant.

At the outset of the hearing the landlords clarified that the tenants vacated the rental unit and a move out inspection was completed on May 14, 2015, as such the landlords are not in need of an order of possession. I amend the landlords' Application for Dispute Resolution to exclude the matter of possession.

Issue(s) to be Decided

The issues to be decided are whether the landlords are entitled to a monetary order for the cost of cleaning and to repair damage to the rental unit; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlords submitted into evidence a copy of a tenancy agreement signed by the parties on November 14, 2014 for a 1 year and 1 day fixed term tenancy beginning on November 15, 2015 for the monthly rent of \$1,200.00 due on the 15th of each month with a security deposit of \$600.00 and a pet damage deposit of \$600.00 paid. The tenancy ended on May 14, 2015, by mutual agreement.

The tenancy agreement included an addendum with 8 additional terms including clause 4 that states: "The Tenant shall not smoke anywhere in or on the rental property nor suffer any guests, invitees, or others to smoke there." Clause 2 stipulates that the tenants could not have any pets other than those described in the tenancy agreement or ones for which the landlord has provided written permission.

The landlords submitted into evidence a copy of a Condition Inspection Report recording the condition of the rental unit at both the start and end of the tenancy and the tenants' forwarding address provided by the male tenant during the move out inspection. The tenant submitted that despite signing the Report at the time of the move out inspection, the landlord altered the document after he did so and before they sent him a copy of the Report.

Specifically, the tenant submits that on the first entry the landlord had marked the box with a check and then altered it to show "P" for poor condition. The landlord testified that the box had been altered but it was done prior to the tenant signing the document. The tenant also specifically identified that the word "smells" written in the comment sections was also added after he had signed the document.

The landlord disagreed and said that during the inspection the landlords identified to the male tenant that the unit smelled of smoke and cat urine and feces but that the tenant stated that he couldn't smell anything because he was a smoker.

The landlords submit that during the tenancy there were a number of occasions when they found either one or both of the tenants smoking on the residential property and inside the rental unit. They have provided photographs that show an ashtray filled with cigarette butts and marijuana "roaches"; a lighter; rolling papers; and a grinder sitting on the table with two people sitting at the table.

The male tenant agreed that he knew the female tenant smoked marijuana in the rental unit, and he did dispute that the female tenant smoked cigarettes inside the unit.

The landlords assert the tenants had additional pets in the rental unit than what the landlords had approved, which was confirmed by the male tenant.

The parties agreed the tenants had left some garbage behind and a couch that was left on the street in front of the residential property. The landlord submits that despite having garbage collection included in the rent the tenants did not use this service but rather stored their garbage in a back room for the duration of the tenancy.

The male tenant testified that while they had not used the garbage collection services he had personally hauled their garbage to dispose of it during the tenancy. He states that he had moved out of the rental unit prior to the end of the tenancy and the female tenant had left some of these bags of garbage.

The landlords submit that after the tenancy ended the rental unit smelled of smoke, garbage, and cat urine and feces. Despite having the rental unit cleaned by professional cleaners who used products to try to alleviate the odours the landlords submit the odours persisted and they were required to paint the unit with products designed to eliminate the odours.

The landlords also provided photographic evidence to confirm that the tenants had damaged the shower curtain in the rental unit. The landlords testified that the shower

curtain is a specialty item because the shower is in an old fashioned claw-footed tub. The landlords testified that the male tenant had told them that the children had cut the shower curtain to be like snowflakes. The tenant testified he felt the damage to the shower curtain was simply wear and tear.

The landlords claim the following as compensation for the condition of the rental unit and have provided either receipts or estimates to confirm all of these costs:

Description	Amount
Garbage Removal	\$269.85
Cleaning Services	\$493.50
Painting Supplies	\$929.34
Shower Curtain replacement	\$103.53
Professional Painting Services	\$918.91
Total	\$2,715.13

Analysis

Section 37 of the *Act* states that when a tenant vacates a rental unit at the end of a tenancy the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear and 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 both parties and the landlord's documentary evidence I find the landlords have established the tenants violated the tenancy agreement by smoking in the rental unit and as a result of this fact alone I find the tenants are responsible for any cleaning and/or repairs such as painting that was required to be completed to ensure the smell of smoke had been eliminated from the entire rental property.

While I accept that the Condition Inspection Report had been altered, I find, the based in part on the male tenant's testimony, that garbage had been left behind such that the landlords were required to remove and clean up after, including the requirement for deodorization.

I am not persuaded by the tenant's position that the shower curtain damage was regular wear and tear. I find the landlords' photographic evidence clearly shows extraordinary damage and as a result the landlords have suffered a loss.

I also find the landlords have established the value of their losses through the provision of receipts and estimates.

Conclusion

I find the landlords are entitled to monetary compensation pursuant to Section 67 in the amount of **\$2,765.13** comprised of \$269.85 garbage removal; \$493.50 cleaning services; \$929.34 painting supplies; \$103.53 shower curtain replacement; professional painting services and the \$50.00 fee paid by the landlords for this application.

I order the landlords may deduct the security and pet damage deposits held in the amount of \$1,200.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,565.13**. This order must be served on the tenants. If the tenants fail to comply with this order the landlords may file the order in the Provincial Court (Small Claims) and be 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: July 16, 2015

Residential Tenancy Branch

