



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended the landlord; both tenants and their translator.

The landlord had arranged for a witness to attend the hearing. While the witness was available for testimony she was not called to provide any.

During the hearing the landlord accepted the tenant's evidence that they had professionally cleaned the carpets at the end of the tenancy. As a result, the landlord withdrew his claim for carpet cleaning.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for 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 parties submitted into evidence a copy of a tenancy agreement signed by the parties on June 30, 2013 for a 1 year and 1 day fixed term tenancy beginning on July 15, 2013 that converted to a month to month tenancy on July 16, 2014 for a monthly rent of \$2,050.00 due on the 1st of each month with a security deposit of \$1,025.00 paid. The tenancy ended on or before March 1, 2015.

The landlord submits that by the end of the tenancy the tenants had caused major damage to the stove top and to the laminate floors in the kitchen/living areas. In support of his claim the landlord has included copies of Condition Inspection Report recording the condition at the start and end of the tenancy; several photographs and estimates for the costs of necessary repairs.

The landlord has submitted two quotes for the repairs to the laminate flooring \$2,514.75 and \$3,695.30, however, he clarified in the hearing that he was seeking the lesser amount. The landlord also submitted an estimate for the stove top repairs in the amount of \$580.00.

The tenants submit that that landlord altered the Condition Inspection Report after they had signed it. Specifically, they stipulate that landlord added comments to areas that he had already checked off as acceptable.

The tenants also question the landlord's photographic evidence. They state that two of the landlord's photographs were taken "of a similar stove in new condition but the time date is questionable. The date stamp indicates the photographs 5 and 6 of the landlord's evidence were taken on June 15, 2013. The tenants go on to say that all of the photographs have different time stamps; font size; direction and location.

The tenants also submitted into evidence photographs that they indicate are of the landlord's stove and the tenants' current stove. They state that both stoves show the same damage and that the landlord's stove was 11 years old and their current stove is 10 years old.

In regard to the laminate flooring the landlord submits that the tenants caused damage to the flooring including a chip out of one section and several scratches throughout the floor. The tenants have submitted a photograph of one section of the flooring showing a key near the chip in the floor.

The tenants submit that that chip in the photograph they submitted was less than 5 mm in diameter but that the landlord's photograph makes it "appear much larger". The landlord's photograph has a picture of a metric ruler up against the chip showing the chip to be 4 to 5 mm.

The tenants also submit that laminate floors are subject to "bumps" or "blisters" and have submitted some photographs and statements that appear to be taken from the internet. One of the statements says: "The best way to tell a manufacturing core void from a dent caused by a dropped object is the absence of stress cracks.

The tenants also assert the landlord is attempting to replace the flooring for the 1st and 2nd floor of the rental unit. The landlord confirmed he is only seeking replacement for the areas of the kitchen and living room areas. The tenants also assert the landlord can just “touch up” the flooring like he did the walls when the first moved in. The landlord submits that no installer will only remove and replace individuals planks but that the whole floor must be replaced. The tenants provided no testimony regarding the scratches on the flooring.

The landlord confirmed the stove and the flooring are approximately 11 years old.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

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.

I find the landlord's photographic evidence confirms that during the tenancy the tenants caused damage above regular wear and tear to the stove. I am not persuaded by the tenants' position that it is simply a matter of age of the stove that has caused the condition to be so.

The fact the tenants have photographs of two stoves that they themselves use that may be of similar age does not provide evidence of anything more than the condition of stoves that are used by these tenants. In addition, I find that the landlord's photographs 5 and 6 represent the condition of the stove prior to the start of the tenancy and that is why they have a date that is much different than the end date of the tenancy.

Further, it is not clear to me why the tenants have raised the issue of the landlord's photographs having different time stamps; font size; direction and location. I find it is common practice for additional photographs to be taken when pursuing a monetary claim for damage. The tenants provided no explanation in regards to how a different font size; direction; or location impacts the photographs or their authenticity.

For these reasons, I find the landlord has established the tenants have caused significant damage to the stove. As a result, I find the landlord has suffered a loss and that the landlord has established the value of that loss to be \$580.00 as per his submitted estimate.

However, I also find that these repairs are subject to depreciation based on the useful life of building elements. Residential Tenancy Policy Guideline #40 stipulates the useful life of a stove is 15 years. As per the landlord's testimony the stove is 11 years old and as a result, I discount the landlord's claim by 73% to a dollar amount of \$156.60.

I am also not persuaded by the tenant's submissions regarding the laminate flooring. While the tenants insinuate the landlord has falsified his photographic evidence and by example they specifically draw attention to the photograph of the flooring chip. They stated that the chip was no more than 5 mm in size and they used their key to show perspective.

However, the landlord, in his photograph shows the chip up against a ruler that measures it to be around 5 mm. Further, while the tenants have submitted generic information about "blisters and bumps" in laminate flooring they provide no direct evidence that the photographs submitted of the flooring in the rental unit were a bump or blister.

From the photographs submitted and using the information in the tenants' evidence to differentiate a blister that is occurring in the laminate flooring from a dent caused by something dropped on the flooring is that a blister will not have any cracks. The photographs from both parties show the damage is a chipping of the flooring with cracking and not simply a blister in the flooring.

As such, I find the tenants' testimony regarding the flooring is not sufficiently reliable to support their position. I am satisfied by the landlord's evidence that the damages caused to the flooring were caused by the tenants during the tenancy. I also accept the landlord has suffered a loss as a result and that he has established the value of that loss through his estimates for flooring replacements.

I note the landlord has claimed \$2,514.75 for the flooring replacement. I note again, however, that this replacement cost is also subject to the depreciation of the flooring product due to its age. As per Residential Tenancy Policy Guideline #40 the useful life of wood flooring is 20 years and as such I discount the landlord's claim by 55% to a dollar amount of \$1,131.64.

Conclusion

Based on the above, I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,338.24** comprised of \$1,131.64 flooring; \$156.60 stove repairs; and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$1,025.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$313.24**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord 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: August 31, 2015

Residential Tenancy Branch

