



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR, MND, MNSD & MNDC

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing filed by each party was sufficiently served on the other by mailing, by registered mail to where the other party resides.

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. Whether the tenant is entitled to a monetary order for the return of the security deposit plus interest totaling \$615.07?
- b. Whether the tenant is entitled to an order to recover the cost of the filing fee?

The Application for Dispute Resolution filed by the landlord seeks the following:

- a. Whether the landlord is entitled to a monetary order in the sum of \$3350 for damage to the rental unit?
- b. Whether the landlord is entitled to retain the security deposit?
- c. Whether the landlord is entitled to the filing fee.

At the hearing the tenant testified the landlord returned the security deposit and that she wished to withdraw her claim. I ordered the tenant's application dismissed as withdrawn. Similarly, I ordered the landlord's application to retain the security deposit be dismissed.

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to a monetary order and if so how much?
- b. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on September 1, 1992. The tenancy agreement provided that the tenant(s) would pay rent of \$1100 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$550 at the start of the tenancy. The rent was subsequently increased to \$1250 per more payable in advance. The tenancy ended on February 1, 2015.

Analysis

The Residential Tenancy Act provides the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant 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 and is liable to compensate the landlord for failure to do so. In some instances the landlord's standards may be higher than what is required by the Act. The tenant is required to maintain the standards set out in the Act. The tenant is not required to make repairs for reasonable wear and tear. The applicant has the burden of proof to establish the claim on the evidence presented at the hearing.

The tenancy lasted over 22 years. The tenant submits the landlord's claim should be dismissed because she delayed 3 months in filing the claim. Further the tenant submits the landlord is claiming as damage items which amount to reasonable wear and tear. Also, given the length of the tenancy, the quantum of any loss must be significantly reduced to reflect depreciation. Policy Guideline #40 Useful Life of Building Elements provides guidance on the useful life of damage claims.

With respect to each of the landlord's claims I find as follows:

- a. The landlord claimed \$1200 for the cost of repairing holes in the walls. I determined the tenants damaged the walls to an extent the exceeded reasonable wear and tear. However, Policy Guideline #40 Useful Life of Building Elements provides that the useful life of drywall is 20 years and interior painting is 4 years.

I dismissed the landlord's claim for the cost of repairing holes in the walls as the drywall was beyond its useful life.

- b. The landlord claimed \$500 for the cost of re-glazing the bath tub. Policy Guideline #40 provides the useful life of a bathtub is 25 years. I determined the landlord failed to establish this claim as the bathtub was beyond its useful life.
- c. The landlord claimed \$100 for the cost of repairing holes in a garage wall. Policy Guideline #40 provides the useful life of drywall is 20 years. I determined the garage wall was beyond its useful life and accordingly I dismissed this claim.
- d. The landlord claimed \$300 for the cost of replacing a damage floor in the ensuite. Policy Guideline #40 provides that the useful life of a hardwood/parquet floor is 20 years and a linoleum floor is 10 years. I determined the floor was beyond useful life and accordingly I dismissed this claim.
- e. The landlord claimed \$290 for the cost of replacing a door. Policy Guideline #40 provides the useful life of a door is 20 years. I dismissed this claim as the door is beyond its useful life. .
- f. The landlord claimed the sum of \$1000 for the cost to replace floors in the kitchen and family rom due to dishwasher leak. The dishwasher had a leak and the landlord is claiming the cost of the insurance deductible. The landlord testified the tenants installed the dishwasher against her permission. The tenant testified they had replaced the floor in the past. In the circumstances I determined the landlord is entitled to \$500 being a reasonable sum after considering reasonable wear and tear.
- g. I dismissed the claim for the cost of photos in the sum of \$31.90 as this relates to the cost of litigation. The only jurisdiction an arbitrator has with respect to cost is the cost of the filing fee.

I determined the landlord has established a claim against the tenants in the sum of \$500.

Conclusion

I ordered the tenants pay the landlord the sum of \$500 plus \$50 for the cost of the filing fee for a total of \$550.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: October 21, 2015

Residential Tenancy Branch

