



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords filed under the Residential Tenancy Act (the "Act"), for a monetary order for damages, for money owed or compensation for loss or damage under the Act and to recover the filing fee from the tenants.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

On August 11, 2015, this matter was adjourned and an interim decision was made, which should be read in conjunction with this decision.

Preliminary matter – October 26, 2015

At the outset of the hearing the landlord requested an adjournment. The tenants objected to any further delay as this matter has been outstanding since January 28, 2015. I find that the landlord has not provided any exceptional circumstance for this matter to be adjournment further. Therefore, I denied the landlords request for an adjournment.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issue to be Decided

Are the landlords entitled to monetary compensation for damages?

Background and Evidence

The parties agreed that the tenancy began on January 1, 2012. Current rent in the amount of \$910.00 was payable on the first of each month. The tenants paid a security deposit of \$450.00.

On February 17, 2015, the parties attended a dispute resolution hearing. At the hearing the landlord was granted an order of possession and a monetary order for unpaid rent. The landlords were authorized to retain the security deposit in partial satisfaction of their claim.

The landlords claim as follows:

a.	Cleaning labour & cleaning supplies	\$1,039.33
b.	Replace 9 window blinds	\$ 172.05

c.	Replace carpets and underlay	\$ 387.12
d.	Replace linoleum floor	\$ 259.30
e.	Paint ceilings	\$ 454.57
f.	Locks	\$ 153.59
g.	Replace toilet seat	\$ 21.22
h.	Filing fee	\$ 50.00
	Total claimed	\$2,537.18

Cleaning labour

The landlord testified that the tenants did not clean the rental unit and it was left extremely dirty. The landlord stated that every room needed to be fully cleaned and all the appliances were left extremely dirty. The landlord stated that animal feces also had to be picked up in yard and garbage removed from the shed. The landlord stated that it took two full weeks to clean the premises and they seek to be compensated the amount of \$1,000.00. Filed in evidence are photographs which support the rental unit was left extremely dirty.

The landlord testified that they seek to recover the cost of cleaning products in the amount of \$39.33. Filed in evidence are receipts for cleaning products.

The tenants testified that they do not dispute that they left the rental unit in the condition shown in the photographs. The tenants argued that the amount claimed for cleaning is excessive as it would not take two weeks to clean a 900 square foot unit. The tenants stated that they do not dispute the amount claimed for cleaning materials.

Replace 9 window blinds

The landlord testified that nine window blinds had to be replaced as eight of the blinds and one curtain were heavily stained from the tenants smoking in the rental unit. The landlord stated that seven of the blinds were new at the start of the tenancy and two of the window covers were purchased approximately four months before the tenancy started. The landlords seek to recover the cost of \$172.05. Filed in evidence are photographs of the blinds which show they were left extremely dirty. Filed in evidence are receipts for the blinds.

The tenants testified that the blinds were left dirty as they did not know how to clean them and cleaning them would have been very difficult in any event. The tenants stated that they do not agree that eight blinds and one curtain were provided at the start of the tenancy, as they had to purchase two blinds for two of the bedrooms and they also replaced the bamboo blind that broke in master bedroom.

Replace carpets and underlay

The landlord testified that the tenants allowed their animals to urinate on the master bedroom carpet and the carpet was left dirty. The landlord stated that the carpet was probably ten or more years old. The landlords seek to recover the cost of the carpet in the amount of \$387.12. Filed in evidence are photographs of the carpet. Filed in evidence is a receipt for the carpet.

The tenants testified that they had a puppy when the tenancy commenced and it had accidents on the carpet. The tenants stated that they cleaned up after the puppy the best they could.

The tenants testified that the carpet was in poor condition when the tenancy commenced and the male landlord wanted to replace the carpet at that time; however, they did not want the carpet to be replaced because they knew that they had pets and did not want to worry about having a new carpet.

Replace linoleum floor

The landlord testified that the tenants caused damage to the kitchen linoleum floor as there was a big cut in the flooring which the tenant allowed water to penetrate causing the subfloor to swell. The landlord stated that they were not asking for the replacement of the subfloor, but they seek compensation for the flooring in the amount of \$259.30. Filed in evidence is a copy of the receipt.

The tenants testified that there was no cut in the linoleum floor and they are not responsible for the replacement of the linoleum floor as the flooring was damaged by a leaking pipe that was under the kitchen sink. The tenants stated that they notified the male landlord as soon as they knew the pipe was leaking.

Paint ceilings

The landlord testified that the ceilings in the rental unit needed to be painted as a result of the tenants smoking. The landlord stated that the last time the rental unit was painted was approximately 4 months prior to the tenancy starting. The landlords seek to recover the painting costs in the amount of \$454.57.

The tenants testified that the ceilings likely needed to be painted. The tenants stated that the landlord must repaint the rental unit after very tenancy ends and therefore they are not responsible for the costs.

Locks

The landlord testified that the tenants failed to leave the keys at the end of the tenancy and they had to replace four locks. The landlord seeks to recover the amount of \$153.59. Filed in evidence are receipts for locks.

The tenants testified that they left the keys on the counter inside the rental unit. The tenants testified that they were only provided two keys at the start of the tenancy, which one key opened two of the locks. The tenants stated they were never provided a key to the back door. The tenants stated that if they are responsible for the keys it should only be for three of the doors.

Replace toilet seat

The landlord testified that it looked like the tenants never clean the toilet seat during their tenancy as it was left extremely dirty. The landlord stated that it was too dirty to clean and it was better for health reasons to replace. The landlord seeks to recover \$21.22. Filed in evidence is a receipt for the toilet seat.

The tenants testified that they did clean the toilet seat during the tenancy, but agreed it was left dirty at the end of the tenancy.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlords have the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

How to leave the rental unit at the end of the tenancy is defined in Part 2 of the Act.

Leaving the rental unit at the end of a tenancy

37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

Cleaning labour

I find the tenants breached the Act, when they failed to clean the rental unit as the photographs support the tenants left the rental unit extremely dirty and this caused losses to the landlord. However, I am not satisfied that it would take two full weeks to clean as that amount of times seems excessive.

However, I am satisfied based on the photographs that 40 hours of cleaning would be reasonable at the rate of \$20.00 per hour. Therefore, I grant the landlords compensation for cleaning in the amount of **\$800.00**.

I am further satisfied that the cost of cleaning supplies is reasonable. Therefore, I find the landlords are entitled to recover cleaning supplies the amount of **\$39.33**.

Replace 9 window blinds

In this case the parties disagreed on the amount of blinds and window coverings that were provided at the start of the tenancy. The evidence of the landlord was eight blinds were provided and one set of curtains. The evidence of the tenant was seven blinds were provided. I find without further evidence from the landlords, such as a move-in condition inspection report that they have failed to prove eight blinds and one set of curtains were provided.

I am satisfied that the seven blinds were provided. I find the tenants breached the Act, when they failed to clean or repair the damage caused to the blinds and this caused losses to the landlord.

However, the Residential Tenancy Policy Guideline 40 defines the useful life of building elements. If the tenants damaged an item, the age of the item may be considered when calculating the tenants' responsibility for the cost of replacement.

I have determined based on the guideline that the blinds had a useful life span of ten years. The blinds were approximately 2 years old at the time of replacement. I find the landlords are entitled to recover the depreciated value of 80 percent. Therefore, I find the landlords are entitled to compensation for seven blinds (\$132.11) in the depreciated amount of **\$105.68**.

Replace carpets and underlay

I find the tenants breached the Act, when they failed to clean the carpets at the end of the tenancy.

While I accept that the evidence of the landlord that the carpet required to be replaced, in part due to the tenants' animals urinating on the carpet as this damage does not constitute normal wear and tear.

I have determined based on the guideline that the carpet had a useful life span of ten years. The carpet was at least 10 years old at the time of replacement. I find based on the guideline the carpet has exceeded their useful life span and as a result the landlords are not entitled to recover the replacement cost of the carpet from the tenants.

However, I find the landlords are entitled to compensation to recognize the tenants breached the Act, when they failed to leave the carpets cleaned. Therefore, I granted the landlords the amount of **\$50.00**.

Replace linoleum floor

In this case, the both parties have provided a different version of events on how the damage was caused to the flooring. The landlord version was that the water penetrated the flooring thorough a cut in the flooring caused by the tenants. The tenants' version was that the water penetrated the floor as a result of a leaking pipe under the kitchen sink, which they notified the male landlord.

I find both versions are probable. However, in this case the landlords have the burden of proof to prove that the damage was caused by the tenants' action. I find without further evidence, such as a move-in condition inspection report or testimony from the male landlord that they have failed to prove their version. Therefore, I dismiss this portion of the landlords' claim.

Paint ceilings

The tenants agreed that the ceilings needed to be painted due to smoking; however, the tenants stated that the landlords are required to paint the rental unit after each tenancy has ended. I find that is unreasonable and not supported by the Act. I find the tenants breached the Act, when they failed to repair the smoke damage ceilings and this caused losses to the landlords.

I have determined based on the guideline that the paint had a useful life span of four years. The paint was approximately 2.5 years old at the time of replacement. I find the landlords are entitled to recover the depreciated value of 37.5 percent.

The evidence of the landlord was it cost \$454.57, to repaint the ceilings. Therefore, I find the landlords are entitled to compensation for the painting at the depreciated amount of **\$170.46**.

Locks

In this case, I accept the tenants' version that they were only provided two keys that open three of the rental unit doors as the landlords have provided no evidence to the contrary, such as a move-in condition inspection which would show the amount of keys that were provided to the tenants at the start of the tenancy.

However, I find the tenants breached the Act, when they failed to return the keys to the landlord. Even if I accept the tenants left the keys inside the rental unit, which was denied by the landlord, there is no way for me to determine if they were received. As a result I find the landlords are entitled to recover the cost to replace 3 of the 4 locks in the total amount of **\$115.19**.

Replace toilet seat

In this case, the tenants did not deny they left the toilet seat dirty. I find the tenants breached the Act, when they failed to clean the toilet seat and this caused losses to the landlord. As this is a health and safety issue, I find the landlords were entitled to recover the full cost of the replacement seat in the amount of **\$21.22**.

I find that the landlords have established a total monetary claim of **\$1,351.88**, comprised of the above described amounts and the \$50.00 fee paid for this application. I grant the landlords an order under section 67 of the Act.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

Conclusion

The landlords are granted a monetary order in the above noted amount.

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 27, 2015

Residential Tenancy Branch

