



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, 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 by the landlord; her agent; the tenant and his agent.

At the outset of the hearing I confirmed with the landlord that their original Application for Dispute Resolution, filed on July 7, 2015, stated that she was seeking \$6,000.00 in compensation which included a claim for repairs; cleaning; and rent for the month of June 2015.

When the landlord submitted their evidence on October 28, 2015 the landlord provided a breakdown of their claim for compensation for damage and cleaning and the filing fee. This breakdown totaled \$6,394.00 plus rent in the amount of \$1,575.00 for a total claim of \$7,969.00, including the filing fee of \$100.00. Excluding the filing fee the landlord's claim was for \$7,869.00.

During the hearing I advised the landlord that since their Application stated a claim of \$6,000.00 and they had not submitted an amended Application, I would not allow their claim to exceed that amount. However, in the hearing I had miscalculated the landlord's claim to be \$8,869.00. I had the landlord reduce their claim by \$2,868.83 but in fact she was only required to reduce it by \$1,869.00.

The landlord identified, in the hearing, that she would reduce her claim by excluding the claim for window cleaning (\$220.00); faucet replacement (\$296.83); carpet replacement (\$1,512.00); and a portion of unpaid rent (\$840.00 of the \$1,575.00 claim). As I had miscalculated I find there is no need for the landlord to reduce their claim for any of the unpaid rent and so I have considered \$1,575.00 for the unclaimed rent portion as I heard testimony and evidence on the issue of unpaid rent.

However, in regard to the landlord's claim for window cleaning; faucet replacement; and carpet replacement I did not hear any testimony or evidence from either party. As such, I cannot, at this time rehabilitate these portions of the landlord's claim.

In total, I have assessed the landlord's claim in the amount of \$5,840.17.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for compensation for damage to the rental unit; for all or part of the security deposit and to recover the filing fee from the tenant 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 landlord submitted into evidence the following relevant documents:

- A copy of a tenancy agreement signed by the parties on July 1, 2014 for a 1 year fixed term tenancy that began on June 1, 2014 for a monthly rent of \$1,575.00 due on the 1st of each month with a security deposit of \$697.00 paid in June 2007 and a pet damage deposit of \$750.00 paid in June 2010. The parties agreed the tenant first moved into the rental unit in June 2007 and that the tenant provided notice to end the tenancy effective July 1, 2015 but that the keys were returned to the landlord prior to the end of June 2015;
- A copy of a Condition Inspection Report recording the condition of the rental unit at the start of the tenancy. The landlord stated the rental unit was brand new when the tenancy began. No move out Condition Inspection Report was provided, however the landlord submitted photographs of the unit condition at the end of the tenancy; as did the tenant.
- Receipts and invoices for amounts claimed.

The landlord claims the following losses:

Description	Amount
Rent – June 2015	\$1,575.00
Broken bathroom sink	\$313.00
Window blinds	\$361.34
Washer/Dryer replacement (including hook ups)	\$1,490.83
Microwave hood replacement	\$600.00
FOB replacement	\$200.00
Wall painting	\$1,300.00
Total	\$5,840.17

The tenants agree they did not pay rent for the month of June and that they are responsible for the broken bathroom sink.

The landlord submits that the blinds have been damaged. In support of this claim the landlord has provided 3 photographs that show one set of blinds on the floor; one partially opened in an odd manner; and a close up of a set of blinds that shows one fin slightly askew. The tenants submit that the pulley system had gone on the blinds. I note that the tenant's photographs and the landlord's video of the move out inspection do not show the blinds at all.

The parties agree that before the end of the tenancy the tenant reported to the landlord that the dryer had stopped working and that the landlord never had it repaired during the tenancy. The landlord submits that because the dryer did not work and it is combination washer/dryer both had to be replaced.

The landlord submits that they were told verbally that it needed replacement by the technician who inspected the dryer. The landlord provided no reason why the dryer was no longer working other than to say that due to its age the only reason it must not be working is due to the tenant.

After the landlord's new tenants moved into the rental unit they informed the landlord that the range hood was not working. This report was made sometime during the 1st week in August 2015. The landlord submits that because it combined with the microwave they had to replace both. The landlord did not provide any specific reason why the hood was not working or what steps they took to determine why it was not working or to repair it prior to replacement.

In regard to the landlord's claim for the replacement of both access FOBs the landlord submitted email correspondence describing one FOB as have all 4 buttons and one FOB being broken with the missing number 2 button. I note that the tenant had agreed to the replacement of one FOB during the hearing.

The landlord seeks compensation for painting the rental unit. The landlord submits the scrapes and scratches on the walls constitute more than reasonable wear and tear. The landlord confirmed the rental unit was last painted when it was new and before this tenant moved into the rental unit in 2007.

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.

I accept that the tenant does not dispute that he owes the landlord \$1,575.00 for rent; \$313.00 for the replacement sink; and \$100.00 for the replacement of one access FOB.

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.

In regard to the landlord's claim for the replacement of the washer/dryer and the hood fan/microwave, I find the landlord has failed to provide any evidence that the reason for these appliances not working was a direct result of the tenant's actions or negligence.

While the landlord seemed to rely on the age of the appliances being the sole indicator that it had to be caused by the tenant for these appliances to not work, I note that many modern appliances simply break down – some appliances don't even last as long as the warranty period.

As such, in the absence of any information from a trained appliance technician as to why these appliances are no longer working, I find the landlord has failed to establish the tenant should be responsible for their replacement.

In regard to the window blinds, the only evidence submitted showing the window blinds were the three pictures provided by the landlord and in each of these pictures it is unclear to me what the damage is to the blinds. However, the tenant acknowledges that the pulley mechanisms were not working.

As there is no evidence before me that the tenant reported any problems to the landlords I find the tenant is responsible for the replacement of the blinds subject only to the depreciated value of the blinds.

From the landlord's testimony the blinds were originally installed in 2007 and as such were 8 years old at the time the tenancy ended. Residential Tenancy Policy Guideline #40 lists the useful life of building elements. This Guideline states that the useful life for blinds is 10 years. As such, I find the landlord's award for replacement blinds must be reduced by 80% to reflect the depreciated value. As such, I find the landlord is entitled to \$72.27.

In regard to the replacement of a second access FOB, again I find the landlords have failed to provide any information as to why the one FOB was not working. For example, was it a problem with something the tenant had done or was it a mechanical defect or battery. In the absence of this information I find the landlord has failed to establish the second access FOB replacement is the responsibility of the tenant.

Finally, in regard to wall painting, I accept, based on the photographic evidence of both parties, that the walls required painting. However, after a tenancy of 8 years during

which time the landlord did not paint the rental unit at all, I find the reasons for painting are to cover reasonable wear and tear. I find the evidence presented does not show anything more.

Furthermore, even if I were to grant the landlord compensation for painting the rental unit it would also have to be discounted based on the useful life of an interior paint job. Residential Tenancy Policy Guideline #40 lists the useful life for this as 4 years. As such, any award for painted would be discounted by 100% since the unit was last painted 8 years ago.

Conclusion

Based on the above, I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$2,110.27** comprised of \$1,575.00 rent owed; \$313.00 sink replacement; \$100.00 access FOB replacement; \$72.27 blind replacement; and \$50.00 of the \$100.00 fee paid by the landlord for this application as she was only partially successful in her claim.

I order the landlord may deduct the security and pet damage deposits and interest held in the amount of \$1,463.67 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$646.60**. This order must be served on the tenant. If the tenant fails 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: December 2, 2015

Residential Tenancy Branch

