



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ROWAN PROPERTY MANAGEMENT LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened in response to applications by the landlords and the tenant.

The landlords' application is seeking orders as follows:

1. For a monetary order for damages to the rent unit;
2. To keep all or part of the security deposit; and
3. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. For a monetary order for money owed; and
2. To recover the cost of filing the application.

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.

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.

Issues to be Decided

Are the landlords entitled to monetary compensation for damages?

Are the landlords entitled to retain the security deposit in partial satisfaction of the claim?

Is the tenant entitled to a monetary compensation for money owed?

Background and Evidence

The parties agreed that the tenancy began on July 1, 2014. Rent in the amount of \$1,000.00 was payable on the first of each month. The tenant paid a security deposit of \$500.00. The tenancy ended on June 30, 2015.

Landlords' application

The landlords claim as follows:

a.	Exterior painting	\$375.00
b.	Curtain rod	\$ 70.00
c.	Rehang light fixture	\$100.00
d.	Filing fee	\$ 50.00
	Total claimed	\$595.00

Exterior painting

The landlord's agent testified that the exterior trim was brown at the start of the tenancy and the tenant change the colour of the trim to green without the consent of the landlord. The agent stated that the trim was painted back to brown and it cost the landlord \$375.00. Filed in evidence is a receipt, which is said to be for all items claimed.

The tenant testified that they did change the colour of the exterior trim from brown to green, but at no time were they told it was a problem.

Curtain rod

The landlord's agent testified that the tenant remove the curtain rod and beaded curtain and threw them out. The agent stated that the landlord is not seeking to recover the cost of the curtain; however, seeks compensation for the missing curtain rod in the amount of \$70.00.

The tenant testified that at the move-in condition inspection the beaded curtain was just junk and they were given permission from the property manager that they could get rid of it.

Rehang light fixture

The landlord's agent testified that the tenant removed a light fixture and did no re-hang the fixture at the end of the tenancy. The landlord seeks to recover the cost of installation in the amount of \$100.00.

The tenant testified that they removed the light fixture as it was a safety issue as it was too low and you would hit your head on it. The tenant stated the landlord was aware they removed the fixture and installed a new one. The tenant stated they were not told that they wanted the old fixture re-hung. The tenant stated their light fixture was felt behind.

Tenant's application

The tenant claims as follows:

a.	For improvements made	\$274.68
b.	Filing fee	\$ 50.00
	Total claimed	\$324.68

The tenant testified that they made improvements to the property during their tenancy, such as they added a new bi-fold door and they repaired the back gate. The tenant stated that they did not have permission from the landlord, but the landlord was aware they made the repairs. The tenant seeks to recover the cost of improvements in the amount of \$274.68.

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, both parties have the burden of proof to prove their respective 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.

Landlord's application

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.

Exterior painting

In this case, I am satisfied that the tenant breached the Act, when they changed the colour of the exterior trim from brown to green, without the consent of the landlord. However, I am not satisfied with the amount claimed by the landlord.

I have reviewed the receipt submitted as evidence. I am not satisfied that the receipt relates to this tenancy, as it is dated October 15, 2015, which is almost three months after the tenant.

The receipts indicated the work performed was the "interior & exterior repairs to walls, trim and paintwork & yard cleanup". There was no evidence that the tenant caused any damage to the exterior or interior walls or left any items in the yard for cleanup.

Further, I was also informed during the hearing that the property was sold recently, which leads me to believe the receipt is more likely for work which was required, due to the sale of the property, rather than from the tenant's action. Therefore, I dismiss the landlords claim for exterior painting.

Curtain rod

In this case, I am satisfied that the tenant breached the Act, when they disposed of the landlord's curtain and curtain rod. However, I am not satisfied on the amount claim as the agent indicated that they were told by the landlord that the above receipt was also for the curtain rod replacement.

The receipt does not provided any information on purchasing or replacing the curtain rod, which make me believe the rod was not replaced. Therefore, I dismiss the landlords claim for curtain rod replacement.

Re-hang light fixture

In this case, I am satisfied that the tenant breached the Act, when they failed to re-hang the landlord's light fixture. However, I am not satisfied on the amount claimed as the receipt filed in evidence does not indicate any installation of a light fixture was made, which lead me to believe the work was not done. Therefore, I dismiss the landlords claim for installation of a light fixture.

Tenant's application

I am satisfied the tenant made improvements to the landlords property, such as adding a bi-fold door and repairing the gate. However, under the Act, the tenant must have the written permission of the landlord prior to making any changes to the premise and any changes made without the consent of the landlord will not be reimbursed. I find the tenant has failed to prove a violation of the Act, by the landlord. Therefore, I dismiss the tenant's claim for compensation.

As I have dismissed the claims of both parties, I decline to award either party the cost to recover their filing fee.

Since, I have dismissed the landlords' claim; I find the landlords are not authorized to retain any portion from the tenant's security deposit.

I order the landlords to return to the tenant their tenant's security deposit in the amount of **\$500.00**. I grant the tenant an order under section 67 of the Act in the above amount, should the landlords fail to comply with my order.

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

Conclusion

Both respective applications are dismissed. The tenant is granted a monetary order should the landlords fail to return the tenant's security deposit as ordered.

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 03, 2015

Residential Tenancy Branch

