



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes MND MNDC MNSD FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for a monetary order for damage to the unit and loss as a result of this tenancy pursuant to section 67 and authorization to retain the tenant's security deposit pursuant to section 38 of the *Act* as well as to recover the filing fee for this application from the tenant.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. Both parties confirmed receipt of the other's documentary submissions for this hearing. The landlord testified that they served the tenant with their application for dispute resolution package and notice of hearing on July 21, 2015 by registered mail. She provided the tracking number and Canada Post receipt for this mailing. I find that the tenant was deemed served with the landlord's application for dispute resolution on July 26, 2015, 5 days after its registered mailing.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for damage to the unit and loss as a result of this tenancy? Is the landlord entitled to retain the tenant's security deposit? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

Both parties testified that this tenancy began on August 27, 2013 as a month to month tenancy. The current rental amount of \$975.00 is payable on the first of each month. The landlord continues to hold a \$487.50 security deposit paid on August 27, 2013, the outset of this tenancy. The tenant vacated the rental unit on May 23, 2014. At that time, the tenant testified that "sometime in July", he provided his forwarding address to the landlord. The landlord confirmed receipt of his forwarding address on July 21, 2014.

The landlord testified that, when the tenant vacated the rental unit, the tenant was provided with two opportunities to conduct a condition inspection of the rental unit; May 23 at 10am and May 23 at 2pm. The landlord testified that, because she had no phone number for the tenant, she posted a notice with these two potential dates for condition inspection on the rental unit door on May 13, 2014. She testified that, because she received no response from the tenant to those notices and that she still believed the tenant was residing in the rental unit, she posted another notice on May 23, 2015 offering a condition inspection date of May 30, 2014. The landlord testified there was no response to this notice and, ultimately, a condition inspection was done without the tenant present.

The landlords testified that the rental unit was damaged and dirty. The landlords made an application on July 21, 2015 when they received a forwarding address from the tenant. They applied to retain the tenant's security deposit and recover the cost of clean-up, repair and removal of junk from the rental unit at the end of the tenancy. The landlords submitted a monetary worksheet with a breakdown of all costs with respect to each expenditure as follows,

Item	Amount
Dry wall repairs and prime entire unit	\$450.00
Dry wall mud ceiling and wall primer (supplies)	150.00
Steam clean carpets	160.00
Paint entire unit including ceilings walls trim	450.00
Paint supplies	150.00
Install new blinds	45.00
New blinds (supplies)	55.00
Cleaning of rental unit	700.00
Remove garbage, items left behind	360.00
Re-key locks including mailbox	45.00
Hauling items to dump	135.00
Misc supplies and labour (bulbs, etc.) <i>65.00+ 25.00 = 90.00</i>	90.00
Less Security Deposit	-487.50
Recovery of Filing Fee for this Application	50.00
Total Monetary Order Sought by Landlord	\$2352.50

The landlord testified that the unit's walls and ceiling were damaged as well as the carpets, requiring mud, primer and paint on all surfaces as well as steam cleaning of the carpets. The landlord testified that two sets of blinds had been broken and had to be

replaced. The landlord testified that the rental unit was filthy and required extensive cleaning as well as junk removal. The landlord provided undisputed testimony that the tenant did not return any keys for the rental unit. The landlord did not provide receipts or invoices for each item; the landlord provided a worksheet from the management company itself detailing the costs and amount of labour required for this unit.

The tenant testified that the rental unit was “not in good shape when I moved in”. He testified that the unit had not been painted when he moved in and “the carpets were already wrecked”. The landlord submitted the condition inspection report at move-in that indicated the entry carpet was dirty with burn-marks at move-in; that the kitchen and bathroom floors were chipped and old; the living carpet and bedroom carpets were dirty and stained; As well, the condition inspection report described blinds as needing replacing at move-in and knife-marks on the kitchen countertop. Repairs listed on the condition inspection report at the start of tenancy are; carpets, cover for light switch and 1 set of blinds. The tenant claimed these items were not repaired and the landlord was unaware of whether these repairs had been done. Damage at the end of tenancy listed on the condition inspection report is listed as; key locks; remove items; paint; cleaning; replace stove; steam cleaning.

Analysis

When an application is made pursuant to section 67 of the *Act*, the applicant bears the burden of proof. The claimant, in this case the landlord must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the tenant. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In this case, the landlord has shown that there is some damage to the rental unit. However the tenant has shown that some of the damage existed at the outset of this tenancy. I find the tenant has shown that the carpets were stained at the start of this tenancy. Therefore, I do not find that the tenant is responsible for the cost of steam cleaning the carpets.

I find the tenant’s testimony and the evidence from the condition inspection report show that the rental unit had not been painted immediately prior to his tenancy and that there was already damage to the walls within the unit at the start of the tenancy. The useful life guidelines within Residential Tenancy Guideline No. 1 and Guideline No. 40 provide that a rental unit should be painted by the landlord at intervals of approximately every 4 years. I find that, since the landlord confirmed the rental unit had been painted last in

2012 and that the walls were problematic at the outset of this tenancy, the tenant is not responsible for dry wall or primer supplies or work but is responsible for ¼ of the cost of painting. The landlord is entitled to \$112.50 for the painting of the rental unit but is responsible for all material costs in these circumstances.

Since the tenant testified and the condition inspection report identified a pair of new blinds required at the outset of his tenancy and there was no evidence that new blinds were provided to him, I do not find that the tenant is responsible for new blinds or their installation. Given the general condition of the unit at move-in and the length of the tenant's tenancy as well as the obligations of a landlord, I do not find the tenant is responsible for miscellaneous costs including light bulbs and labour to install light bulbs. Replacement of light bulbs during the course of the tenancy is the responsibility of the tenant however replacement of light bulbs and ensuring they are in working order is generally the responsibility of the landlord, pursuant to the Residential Tenancy Policy Guideline No. 1. I accept the tenant's testimony that not all of the facilities within the rental unit were working throughout the course of the tenancy. Further, the landlord provided no particularization, details or specific evidence to claim the cost of light bulbs and other "miscellaneous" items.

The tenant was candid in his testimony that he did not return the keys and therefore he is responsible to the landlord for the re-keying of the locks at \$45.00.

The tenant claimed that he cleaned the rental unit however the landlord's evidence contradicts that statement. While the tenant has provided convincing testimony and evidence with respect to existing damage within the rental unit, I accept the sworn testimony of the landlord regarding the work that was required to be done within the unit at the end of this tenancy. I find the tenant responsible for a reasonable cost for cleaning (10 hours at \$35.00 per hour = 350.00) as well as the removal of garbage (\$360.00) and taking items to the dump (\$135.00).

Based on the above information, I find that the tenant is responsible to the landlords as follows,

Item	Amount
Paint entire unit including ceilings walls trim	\$112.50
Cleaning of rental unit	350.00
Remove garbage, items left behind	360.00
Re-key locks including mailbox	45.00
Hauling items to dump	135.00

Less Security Deposit	-487.50
Recovery of Filing Fee for this Application	50.00
Total Monetary Award to Landlord	\$565.00

Based on all the evidence, I find that the landlord made an application in accordance with the Act and, while the tenant did not agree to the retention of his security deposit, I allow the landlord to retain the tenant's security deposit towards this monetary award in accordance with section 72 of the *Act*.

Having been successful in this application, I find further that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

Conclusion

I issue a monetary Order in favour of the landlord in the amount of \$565.00.

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: January 21, 2016

Residential Tenancy Branch

