



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SHAWNESSY SQUARE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNSD, MNDC, MND, FF

Introduction

This hearing dealt with cross applications. The landlord is seeking a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenants have filed an application seeking the return the security deposit. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issue to be Decided

Is either party entitled to a monetary order as claimed?

Background, Evidence

The landlord's testimony is as follows. The tenancy began on July 1, 2011 and ended on September 30, 2015. The tenants were obligated to pay \$775.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$387.50 security deposit. The landlord stated that the tenant left the unit dirty with some damage. The landlord stated that the unit was not suitable for viewings to potential tenants. The landlord stated that the repairs and cleaning prevented him from showing the unit for the first two weeks of October 2015. The landlord is seeking a monetary order for cleaning, repairs and loss of revenue for two weeks.

The landlord is applying for the following:

1.	Cleaning and Supplies	\$220.00
2.	Carpet Cleaning	\$180.77
3.	Bedroom Curtain Cleaning	\$42.50
4.	Repair Exterior door	\$189.00
5.	Carpet repair and dyeing	\$147.00
6.	Refrigerator repair and parts	\$117.54
7.	Vertical Blind Repair	\$156.16
8.	Bedroom Door Repair	\$110.00
9.	Loss of Revenue October 1-15	\$350.00
10.	Filing Fee	\$50.00
	Total	\$1562.97

The tenant gave the following testimony. The tenant stated that she disputes the majority of the landlords claim. The tenant stated that she cleaned the unit and left in better condition than when she got it. The tenant stated that she did accidentally bleach the carpets and her granddaughter broke two of the blind panels; however, other than those two items she stated that the unit was left clean and empty and that it suffered only from general wear and tear.

Analysis

Section 67 of the Act states that when a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. **To prove a loss the applicant must satisfy all four of the following four elements:** In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

After a party has satisfied all four of the above grounds the second aspect must be taken into account as to the age of an item and its remaining useful life, where applicable. Policy Guideline 40 addresses the “useful life” of building elements. An Arbitrator may award an amount based on the pro-rated amount of “useful life” remaining on an item if it is damaged or needs replacing.

Written Condition Inspection reports were conducted at move in and move out, however the parties did not agree on the condition of any items in the suite at move out and the tenant refused to sign it.

I address the landlord’s claims and my findings around each as follows.

1. Suite Cleaning and Supplies - \$220.00.

The landlord stated that the unit was dirty and not suitable to show any potential new tenants. The landlord submitted photos, the condition inspection report and receipts to support his claim. The tenant stated that she spent two days cleaning the unit with her daughter.

Residential Tenancy Policy Guideline 1 states that a tenant must leave a unit reasonably clean at move out. Based on the documentation provided by the landlord, I am satisfied that the tenant did not leave the unit in a reasonably clean condition and I therefore find that the landlord is entitled to \$220.00.

2. Carpet Cleaning – \$ 180.77

The landlord stated that although the tenant did have the carpets cleaned, they were not done well. The landlord stated that numerous stains were left behind that required him to have them cleaned again. The tenant stated that she cleaned the carpets and provided a receipt for that cleaning.

Residential Tenancy Policy Guideline 1 addresses this issue as follows:

The tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. Where the tenant has deliberately or carelessly stained the carpet he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of tenancy.

The landlord provided photos that show an inordinate and excessive amount of stains on the carpet. Based on the documentation submitted by the landlord I find that the tenant did not leave the carpets reasonably clean at move out and hereby find that the landlord is entitled to \$180.77.

3. Bedroom Curtain Cleaning - \$42.50

The landlord stated that the tenant did not wash the curtains at move out. The tenant stated that she ran them through the washing machine, dried them, and then hung them back up. The landlord did not provide sufficient evidence to support this claim and I therefore dismiss this portion of the landlords' application.

4. Repair exterior door.

The landlord stated that the entrance door to the suite was scuffed and scratched by the tenant at move out. The landlord stated that the door and locks had to be disassembled, sanded, re-stained and then reassembled. The tenant stated this is an exterior door to a common area which she cannot control. The tenant stated that a family member had observed a child using chalk on doors and scratching them.

The landlord has not provided sufficient evidence to show that the tenant was responsible for this damage. It is also worth noting, the landlord stated that the door was from 1972. Policy Guideline 40 lists the useful life of a door at 20 years, whereby this door has far exceeded its useful life. Based on all of the above I dismiss this portion of the landlords' application.

5. Bleach stains on carpet, re -dyeing - \$147.00.

The tenant stated that she attempted to bleach the linoleum floor in the kitchen to remove stains and stated that the bleach accidentally "leached" out onto the carpet. I accept the tenant meant no malice, however due to her carelessness the carpet was stained that required the landlord to incur a cost; accordingly I find that the landlord is entitled to \$147.00.

6. Refrigerator Repair - \$117.54

The landlord stated that the rubber gasket seal around the fridge was falling off and a crisper tray was broken. The landlord stated that the parts cost him \$12.54 and he is seeking \$105.00 labour to pick up the crisper tray and install it. Based on the documentary and photo evidence provided by the landlord, I am satisfied that the tenant damaged the crisper tray and is responsible for that cost. However, I do not accept the exorbitant amount submitted for 3 hours labour at \$35.00 per hour to drive to the

supplier to buy a new tray and then slide in the crisper tray. The landlord is entitled to one hour's labour for a total award of \$47.54.

7. Blind Repair- \$156.16

The landlord stated that the several panels in the blinds were stripped, twisted, broken or not working. The landlord found that that tenant used toothpicks to try to hold the blinds in place. The landlord submitted photos, receipts and the condition inspection report to support his claim. The tenant stated that her granddaughter broke two of the panels by accident. The tenant stated that the landlord damaged the others by pulling on them during the inspection. I accept the tenants' granddaughter meant no malice, however the tenant is still responsible for the actions of their guests' regardless of age. And due to her actions the blinds were damaged that required the landlord to incur a cost; accordingly I find that the landlord is entitled to \$156.16.

8. Bedroom Door Repair - \$110.00.

The landlord stated that the tenant screwed and nailed in a coat hanger to the back of the bedroom door. The landlord stated that he had to remove the hanger, fill, patch, sand and repaint the door. The tenant stated that the coat hanger was already there when she moved in. The tenant stated that she left it behind because it wasn't hers. The tenant stated she's not sure what the landlord is talking about. As noted in claim # 4, the building was built in 1972. The landlord did not provide any evidence that the door was anything other than the original which would far exceed the useful life of 20 years as per Policy Guideline 40. In addition, the landlord did not satisfy me that the coat hanger was that of the tenant and therefore I cannot ascertain if she is responsible for any costs incurred. Based on the above and on a balance of probabilities, I dismiss this portion of the landlords' application.

9. Loss of Revenue - \$350.00.

The landlord stated that he was unable to advertise the unit as it took some time to clean and repair it. The landlord stated that he was also at the mercy of the contractors' schedule. The landlord stated if everything was ready to go and everyone was available he could have had the work done sooner, but that's not reality.

After reviewing the documentation and considering the testimony of both parties, I find that the amount as claimed by the landlord is reasonable and appropriate based on the condition of the unit at move out and on a balance of a probabilities. The landlord is entitled to \$350.00.

The landlord is also entitled to the recovery of the \$50.00 filing fee.

The tenant has not been successful in her application.

Conclusion

The landlord has established a claim for \$1151.47. I order that the landlord retain the \$387.50 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$763.97. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The tenants application is dismissed.

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: May 05, 2016

Residential Tenancy Branch