



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TOP VISION REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD

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 rental unit pursuant to section 67; and
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38.

The tenants did not attend this hearing, although I waited until 1356 in order to enable the tenants to connect with this teleconference hearing scheduled for 1330. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The agent testified that the landlord served the tenants with the dispute resolution package on 23 October 2015 by registered mail. The agent provided me with a Canada Post tracking number that showed the same. On the basis of this evidence, I am satisfied that the tenants were deemed served with the dispute resolution package pursuant to sections 89 and 90 of the Act.

The agent testified that he personally served the evidence to the tenant JM and left the evidence package for LM on the door. On the basis of this evidence, I am satisfied that the tenants were served with the evidence pursuant to section 88 of the Act.

Issue(s) to be Decided

Is the landlord entitled to a monetary award for damage to the rental unit? Is the landlord entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the agent, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around it are set out below.

This tenancy began 1 December 2012 and ended 31 October 2015. Monthly rent in the amount of \$3,114.00 was due on the first. The landlord continues to hold the tenants' security deposit in the amount of \$1,500.00, which was collected on 24 November 2012.

The landlord claims for \$3,000.00:

Item	Amount
Damage to Laminate Flooring	\$1,800.00
Damage to Carpet	1,000.00
Damage to Door	200.00
Total Monetary Order Sought	\$3,000.00

The agent testified that the rental unit was undamaged at the beginning of tenancy with the exception of normal wear and tear. The agent testified that the tenants left the rental unit damaged. In particular, the tenants damaged the laminate flooring, the carpet, and the door. I was provided with a copy of the condition inspection report that verifies the agent's testimony.

The landlord testified that as a result of the damage to the rental unit, the landlord had to reduce the rent for the unit by \$414.00 monthly. The agent testified that the landlord rerented the unit for \$2,700.00.

The landlord provided photographs of the rental unit at the beginning of the tenancy. There is nothing remarkable in those photographs.

The agent testified that the tenants had two large potted plants in the dining room on either side of a china hutch for the duration of the tenancy. The agent testified that the flooring underneath these pots was damaged (including water damage) at the end of the tenancy. The landlord provided me with photographs of the damage. Slats of the flooring are badly damaged and have been removed. The agent testified that the landlord was only claiming damages for the amount attributable to the damage and not for regular wear and tear. The agent testified that a repair person was able to patch the flooring for a cost of \$120.00. The agent testified that this is a temporary fix and that

eventually the flooring will have to be replaced. The agent testified that the subsequent tenants were told to cover the floor damage with an area rug.

The agent testified that the tenants' furniture caused red staining on the carpets and the tenants' dog caused stains on the carpets. The landlord provided photographs that corroborate this testimony. The agent estimated that approximately 1,800 sf of carpeting was damaged. The agent testified that the landlord attempted to clean the stains at a cost of \$551.00, but that this special stain treatment was not successful in removing the staining. The agent testified that as a result of the staining the rental unit is devalued. The landlord claims \$1,000.00 in total damage for the cleaning and staining of the carpets.

The agent testified that the tenants had damaged a screen door in such a manner that it could not be rehung. The agent testified that the door was 22 years old. The landlord provided a receipt indicating that the door cost \$130.00 to replace.

The landlord provided me invoices in support of its claim.

Analysis

Subsection 37(2) of the Act specifies that when a tenant vacates a rental unit, the tenant must leave the unit reasonably clean and undamaged except for reasonable wear and tear. *Residential Tenancy Policy Guideline*, "1. Landlord & Tenant – Responsibility for Residential Premises" states:

The tenant is generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard. The tenant is also generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest. ...

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.

Section 67 of the Act provides that, where an arbitrator has found that damages or loss results from a party not complying with the Act, an arbitrator may determine the amount of that damages or loss and order the wrongdoer to pay compensation to the claimant. The claimant bears the burden of proof. The claimant must show the existence of the damage or loss, and that it stemmed directly from a violation of the agreement or a contravention of the Act by the wrongdoer. If this is established, the claimant must provide evidence of the monetary amount of the damage or loss. The amount of the

loss or damage claimed is subject to the claimant's duty to mitigate or minimize the loss pursuant to subsection 7(2) of the Act.

The uncontested evidence of the landlord shows that the tenants caused damage to the laminate and carpet flooring. By leaving the flooring damaged and unclean, the tenants breached subsection 37(2) of the Act.

The landlord was able to use a minor repair in order to render the laminate flooring functional. The landlord provided an invoice dated 31 October 2015 verifying that the cost of the repair was \$120.00. I find that the tenants caused damage to the laminate flooring and that this damage caused the landlord to incur costs of repair in the amount of \$120.00. On the basis of the landlord's evidence, I find that it is entitled to recover the full amount of this loss.

I was provided with a receipt for the cost of floor cleaning from the landlord. The invoice set out a total cost of \$551.25. I find that the tenants failed to adequately clean the flooring, the tenants caused the landlord to incur costs in the amount of \$551.25. On the basis of the landlord's evidence, I find that it is entitled to recover the full amount of this loss.

In addition to these specific amounts, the landlord claims an additional \$2,128.75 as damages attributable to a loss of value attributable to the damaged flooring. In particular the landlord submits that the rental unit was devalued by \$414.00 monthly. I accept that by causing damage to the flooring in the rental unit, the value of the rental unit was diminished. I accept the landlord's uncontested evidence that the amount of this devaluation was \$414.00 monthly. I accept the landlord's uncontested evidence that the total devaluation is equivalent to \$2,128.75. On the basis of this evidence, I find that the landlord is entitled to recovery the full amount of this claimed loss.

The landlord claims the cost of replacing a door that was damaged by the tenants. This door was an exterior door. The landlord provided evidence that this door was 22 years old. *Residential Tenancy Policy Guideline* "40. Useful Life of Building Elements" provides me with direction in determining damage to capital property. That guideline sets out that the useful life of a door is twenty years. As the door had exceeded its useful life, I find that the landlord is not entitled to compensation for replacing that door.

The landlord applied to keep the tenants' security deposit. I allow the landlord to retain the security deposit in partial satisfaction of the monetary award. No interest is payable over this period.

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

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$1,350.00 under the following terms:

Item	Amount
Repair to Laminate Flooring	\$120.00
Floor Cleaning	551.25
Loss of Value	2,128.75
Offset Security Deposit Amount	-1,500.00
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$1,350.00

The landlord is provided with this order in the above terms and the tenant(s) must be served with this order as soon as possible. Should the tenant(s) fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial Court and 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 subsections 9.1(1) and 77(2) of the Act.

Dated: June 14, 2016

Residential Tenancy Branch