



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing dealt with a landlords' application for a Monetary Order for damage or loss under the Act, regulations or tenancy agreement. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

In filing their applications, the landlords indicated they were seeking authorization to retain the security deposit; however, I determined that the security deposit was the subject of a previously heard Tenant's Application for Dispute Resolution and the security deposit has already been ordered to be returned to the tenants. Accordingly, the disposition of the security deposit has already been decided and it is not a matter before me. Therefore, this decision concerns the landlords' entitlement to a Monetary Order without regard for the security deposit and the Monetary Order issued to the tenants under the previous dispute resolution proceeding remains enforceable, as necessary.

Issue(s) to be Decided

Have the landlords established an entitlement to compensation from the tenants for damage and cleaning in the amounts claimed?

Background and Evidence

The tenancy started October 1, 2011 although the tenants were provided occupancy of the rental unit approximately one week earlier. The tenancy ended July 31, 2015. The landlords did not prepare move-in or move-out inspection reports although the unit was inspected together at the end of the tenancy.

The landlords seek compensation totalling \$761.90 from the tenants, comprised of four components. Below, I have summarized the parties' respective positions as to the landlords' claims against the tenants.

1. Carpet cleaning -- \$230.21

The landlord submitted that tenants did not have the carpets cleaned at the end of the tenancy and the landlord had it done at a cost of \$230.21. The landlords seek to recover this cost from the tenants. The landlords provided a copy of the carpet cleaning receipt.

The tenants acknowledged that they did not have the carpets steam cleaned or shampooed at the end of the tenancy but they had vacuumed it. The tenants also stated that during the tenancy they cleaned any spills or stains created as they occurred.

2. Painting and wall repairs -- \$262.50

The landlord submitted that the tenants created dents and holes in the walls and baseboards beyond reasonable wear and tear and the walls were also stained with ink or crayon, most likely from the tenant's children. The damage included holes from a TV mount and baby gates. The landlord hired a painter to fill the holes and dents, seal the ink and crayon on the walls and apply touch up painting. The landlord provided a copy of the painter's invoice along with a written statement of the painter describing the condition of the rental unit on August 1, 2015. The rental unit was last painted in September 2011 and done by the same painter.

The tenants acknowledge there was one medium sized hole from a TV mount they installed but claim they were unaware of any other holes or dents that would be beyond normal wear and tear. The tenants submitted that the baby gate(s) was pressure mounted and they were unaware of any dents that the gate(s) created. The tenants also stated that they were unaware of ink or crayon on the walls.

3. Cleaning -- \$150.00

The landlord submitted that the tenants failed to leave the rental unit in a clean condition and described several areas of the rental unit that required additional cleaning. The landlord submitted that a cleaner was paid \$25.00 per hour and spent six hours cleaning. The landlord did not have a receipt from the cleaner but provided a written statement from the in-coming tenants describing the sight of a cleaner in the kitchen on August 1, 2015.

The tenants testified that they cleaned the rental unit themselves and hired a cleaner to clean the kitchen. As to the level of cleanliness they left the unit, the tenants described it as being much cleaner than when they moved in and more than reasonably clean.

4. Broken blinds -- \$119.19

The landlord testified that two blinds were broken at the end of the tenancy: one in the kitchen and one in the bedroom. The kitchen blind was hanging from the window and the bedroom blind had cracked and bent slats. The blinds were PVC plastic installed in September 2011. The landlord purchased new blinds to replace the broken blinds with ones of the same quality and seeks to hold the tenants responsible to pay this cost.

The tenant testified that when he went to pull up the kitchen blind at the end of the tenancy during the cleaning process the blind broke near the bracket which resulted in it hanging from the window frame. The tenant stated he did nothing other than pull on the string to raise the blind. The tenants do not recall a damaged blind in the bedroom.

Both parties provided photographs of the rental unit taken near the start of the tenancy; however, neither party provided photographs or video of the rental unit at the end of the tenancy.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided in section 7 and 67 of the Act. Accordingly, an applicant must prove the following:

- That the other party violated the Act, regulations, or tenancy agreement;
- That the violation caused the party making the application to incur damages or loss as a result of the violation;
- The value of the loss; and,
- That the party making the application did whatever was reasonable to minimize the damage or loss.

The burden of proof is based on the balance of probabilities. It is important to note that where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Under section 37 of the Act, a tenant is required to leave the rental unit reasonably clean and undamaged at the end of the tenancy. Section 37 further provides that reasonable wear and tear is not damage. Residential Tenancy Branch Policy Guideline 1 provides information for landlords and tenants as to their respective obligations concerning repairs and maintenance, among other things and I have referred to policy guideline 1 in making this decision. Residential Tenancy Policy Guideline 40 also provides for the average useful life of various building elements and I have referred to that policy guideline in this decision..

Upon consideration of everything presented to me, I provide the following findings and reasons with respect to each of the landlord's claims.

1. Carpet cleaning

The tenants occupied the rental unit nearly four years and did not have the carpets steam cleaned or shampooed at the end of the tenancy. Under policy guideline 1 a tenant is generally

held responsible to have the carpets steam cleaned or shampooed at the end of the tenancy if they occupied the rental unit for greater than one year. Accordingly, I find the landlords are entitled to recover the cost of carpet cleaning from the tenants and I award the landlords \$230.31 as claimed.

2. Painting and wall repairs

Residential Tenancy Policy Guideline 1 provides that a landlord should expect some holes in the walls from tenant's hanging artwork and the like; however, the policy guideline provides that an excessive number of holes or large holes would be considered damage for which the tenant is responsible. Residential Tenancy Branch Policy Guideline 40 provides that interior paint has an average useful life of four years.

In this case, the landlords' painter described the work that was performed August 1, 2015 including repairs to "numerous large holes from wall screws; damage to the walls in the living and bathroom areas; full stairwell on entry, fill numerous dents." The tenants acknowledged having a TV mount installed on the wall and I find the tenant's concession that this left one medium sized hole to be an understatement as most TV mounts require more than that to hold the weight of a television on the wall. Accordingly, I find the painter's written statement to be sufficient evidence that there was damage to the walls in the rental unit. However, the painter also described his work as including painting door frames into all rooms and bedroom doors without indicating they were damaged. Also of consideration is that the tenants are not obligated to pay for reasonable wear and tear and I find that a landlord should expect signs of wear and tear such as marks and scuffs after a tenancy of nearly four years. Therefore, on the balance of probabilities, I find the landlord entitled to recover the cost of wall repairs and a portion of the repainting costs.

Without more information to allocate the painter's invoice between wall repairs and repainting the doors and door frames, I approximate the tenants' liability to one-half of the invoice and I award the landlords \$131.25 for wall repairs.

3. Cleaning

The parties provided disputed verbal testimony as to level of cleanliness the rental unit was left by the tenants. Each party provided evidence indicating the kitchen was cleaned by their respective cleaners: the landlord's incoming tenants wrote a statement indicating they observed a cleaner in the kitchen on August 1, 2016 and the tenants provided an invoice showing they had hired a cleaner to clean the kitchen near the end of their tenancy.

The Act requires the tenant to leave a rental unit "reasonably clean" and a landlord is not entitled to recover cleaning costs to bring a rental unit to a level of cleanliness that is greater than reasonably clean. It is not uncommon for landlords to spend more time cleaning after a tenant vacates to bring a rental unit up from reasonably clean to a higher standard of

cleanliness and such costs are absorbed by the landlord. While I accept that the landlord had a cleaner in the rental unit on August 1, 2016 I find the lack of other evidence, such as a move-out inspection report, photographs or video, or a statement from the cleaner, does not establish to my satisfaction that the tenants failed to leave the rental unit reasonably. Therefore, I find the landlords have not met their burden of proof with respect to this claim and it is dismissed.

4. Blinds

Although the landlords indicated they were seeking \$119.19 for two new blinds, when I look at the receipt, I note that the receipt includes other purchased items that do not appear related to blinds. Accordingly, the cost to purchase two new blinds is actually \$87.94 plus tax, or \$98.49 and I limit the claim to that amount.

It was undisputed that the kitchen blind broke or became detached from the bracket during the tenancy. However, it is important to recognize that elements of a rental unit have limited useful lives and are subject to deterioration, breakage or failure due to aging, wear and tear, and mechanical failure. Since monetary awards are intended to be restorative it is also important to recognize that where an item has a limited useful life, it is appropriate to reduce the replacement cost by the depreciation of the original item.

Policy Guideline 40 provides that “venetian blinds” have an average useful life of 10 years; however, venetian blinds may be of various materials and quality, impacting its expected life expectancy. Having heard the subject blinds were PVC plastic I find it likely that such blinds would have a shorter life expectancy than other more durable materials such as metal or wood since plastics become brittle in sunlight or heat. Considering the plastic window blinds were nearly four years old I find it reasonably likely that the blinds were nearing the end of their useful life and the tenant’s description of the broken piece at the bracket sounds tent with brittle plastic. Accordingly, in the absence of any other evidence, I find it just as likely that the blinds broke or cracked due to aging and wear and tear rather than negligence on part of the tenants. Therefore, I find the landlords’ request to recover the full replacement cost of new blinds from the tenants to be unreasonable and I dismiss this claim.

5. Filing fee and Monetary Order

As the landlords had limited success in this application, I award the landlords recovery of one-half of the filing fee they paid for this application, or \$50.00.

Based upon all of my findings above, the landlords are provided a Monetary Order against the tenants calculated as follows:

Carpet cleaning	\$230.21
Wall repairs	131.25
Fining fee (one-half)	<u>50.00</u>

Monetary Order

\$411.46

Conclusion

The landlords have been provided a Monetary Order in the sum of \$411.46 to serve and enforce against the tenants as necessary.

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: October 07, 2016

Residential Tenancy Branch