



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the landlord for a monetary order for unpaid utilities, for damages to the unit, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee from the tenant.

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.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

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.

Preliminary matter

At the outset of the hearing the parties were informed that although I have the same surname as the respondent. I do not know the respondent.

Issues to be Decided

Is the landlord entitled to a monetary order for unpaid utilities?

Is the landlord entitled to a monetary order for damages?

Is the landlord entitled to keep all or part of the security deposit?

Background and Evidence

The tenancy began on November 1, 2014. Rent in the amount of \$1,650.00 was payable on the first of each month. A security deposit of \$825.00 was paid by the tenant. The tenancy ended on January 31, 2016. The tenant had access to the unit until February 6, 2016 to finish cleaning.

The parties agreed a move-in and move-out condition inspection report was completed. Filed in evidence is a copy of the report.

The landlord claims as follows:

a.	Repair carpet stain	\$ 328.32
b.	Damages to wall and blind	\$ 180.00
c.	Two burnt out lights	\$ 12.05
d.	Utilities	\$ 10.00
e.	Remote control for fireplace	\$ 280.00
f.	Cleaning deficiencies 6 hours @\$25.00	\$ 150.00
g.	Filing fee	\$ 100.00
	Total claimed	\$1,060.37

Repair carpet stain

The landlord testified that the tenant caused damage to the carpet as there were pink stains that they could not remove. The landlord stated that they were able to have the carpet repaired, rather than have it replaced. The landlord seeks to recover the cost of the repair in the amount of \$328.32. Filed in evidence are receipts.

The tenant does not deny that there were pink stains in the carpet. The tenant stated they are more concern with the cost of the repair.

Damages to wall and blind

The landlord testified that the tenant left four crews and anchors in the wall. The landlord stated that they seek to recover the cost of the repair in the amount of \$130.00.

The landlord testified that the tenant also damaged the horizontal blind as one panel was broken at the top and had to be repaired. The landlord stated that the blinds were

approximately 8 years old. The landlord seeks to recover the cost of repairing the blind in the amount of \$50.00.

The tenant testified that they did not cause damage to the wall. The tenant stated that they hung a mirror on the bedroom wall. The tenant stated they left the screws and anchors as they did not want to cause damage to the wall. The tenant stated that this is normal wear and tear.

The tenant testified that they did not cause damage to the blind. The tenant stated that the panel would fall off the clip under normal use. The tenant stated that this is reasonable wear and tear.

Two burnt out lights

The landlord testified that there were two burnt out light bulbs at the end of the tenancy. The landlord seeks to recover the cost to replace the bulbs in the amount of \$12.05.

The tenant testified that there were no light bulbs burnt out at the end of the tenancy.

Utilities

The landlord testified that the tenant overheld the rental premises and should be responsible for utilities based on a prorated amount of \$10.00.

The tenant testified that they vacated the rental unit on January 31, 2016. The tenant stated that they were only in the rental unit to complete additional cleaning. The tenant stated the landlord also had access to the unit during this time.

Remote control for fireplace

The landlord withdrew this portion of their claim.

Cleaning

The landlord testified that the tenant did not adequately clean the rental unit which they had to spend six hours cleaning. The landlord stated that the tenant did not clean behind the appliances, the blinds were left dusty, the kitchen cupboards had to be clean, the bathroom was dirty and the switch plates were dirty. Filed in evidence is a DVD containing pictures which I have reviewed. The landlord seeks to recover 6 hours of labour at the rate of \$25.00 per hour for a total amount of \$100.00.

The tenant testified that they did not pull out the appliances as they were heavy and they were not pulled out when they did the move-in condition inspection. The tenant stated that they spent a lot of time cleaning the premises. The tenant stated that six hours of cleaning is unreasonable.

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, the landlord has the burden of proof to prove their 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.

Section 37 of the Act states that the tenant is required to return the rental unit to the landlord 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.

Section 21 of the Act states a condition inspection report completed in accordance with this section is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.

Repair carpet stain

In this case both parties agreed that there were pink stains in the carpet. This is not normal wear and tear. The landlord had the carpet repaired. While the tenant believes

the amount claimed is high, they have not provided any evidence that the cost to make the repair was unreasonable. I find the tenant breached the Act when they failed to repair the carpet and this caused losses to the landlord. Therefore, I find landlord is entitled to recover the cost of the carpet repair in the amount of **\$328.32**.

Burnt out lights

The evidence of the landlord was that two light bulbs were burnt out at the end of the tenancy. The tenant denied this. As both parties have different version of the events, I find I must rely upon the move-out condition inspection report. The report shows there are no burnt bulbs. I find the landlord has failed to prove a preponderance of evidence to the contrary as required by section 21 of the Act. Therefore, I dismiss this portion of the landlord's claim.

Utilities

In this case the landlord has claimed a prorated amount of utilities; however, I am not satisfied that the tenant is responsible for the cost because the tenant was not living in the rental during this period and both parties appeared to be accessing the rental unit. Therefore, I dismiss this portion of the landlord's claim.

Damages to wall and blind

In this case the tenant left four screws in the wall, which were used to anchor a mirror. The tenant did not remove the screws as they did not want to cause damage to the wall. I find hanging a mirror is not unusual and using the appropriate hangers is reasonable. I find this does not constituted damage. I find the landlord has failed to prove the tenant has violated the Act. Therefore, I dismiss this portion of the landlord's claim.

I am not satisfied that the tenant caused damage to the blind. The blind is approximately eight years old and are nearing the end of their useful life span. I find it not unreasonable that the blinds are starting to wear and in need of repair due to the age process. I find the landlord has failed to prove the tenant has violated the Act. Therefore, I dismiss this portion of the landlord's claim.

Remote control for fireplace

The landlord withdrew this portion of their claim.

Cleaning

In this case, I have reviewed the photographs submitted as evidence. While the photographs have been enlarged, I am satisfied additional cleaning was required as the cupboard were not adequately cleaned, blinds were dusty and the bathroom need additional cleaning. I find the tenant breached the Act when they failed to clean the above-mentioned items.

However, I am not satisfied that the tenant is responsible for six hours of cleaning as these deficient are minor in nature. Further, I am not satisfied that the tenant is responsible for all the cleaning under the appliance, as the appliance was not pulled out at the move-in inspection. Therefore, I grant the landlord compensation for 4 hours at the rate of \$25.00 for the total amount of **\$100.00**.

I find that the landlord has established a total monetary claim of **\$528.32** comprised of the above described amounts and the \$100.00 fee paid for this application.

I order that the landlord retain the above amount for the tenant's security deposit in full satisfaction of the claim and I grant the tenant an order under section 67 for the balance due of their security deposit in the amount of **\$296.68**. Should the landlord 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.

Conclusion

The landlord is granted a monetary order and may keep a portion of the security deposit in full satisfaction of the claim. The tenant is granted a formal order for the balance due of their security deposit.

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 19, 2016

Residential Tenancy Branch

