



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, MNR, MND, FF

Introduction

This is an application brought by the Landlord requesting a monetary order in the amount of \$6163.51.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the applicant has established monetary claim against the respondent, and if so in what amount.

The landlord has filed a monetary claim as follows:

Repair window	\$227.08
Repair walls/materials	\$72.04
Repair floor	\$210.00
Clean rental unit	\$720.00
Replace damaged blinds	\$201.54
Postage	\$37.06
Legal fees	\$2840.74
Filing fee for dispute resolution	\$100.00
Landlord BC membership and fees	\$233.25
April 2016 rent not paid	\$1133.00
Time spent on letter to arbitrator	\$80.00
Time spent on office work for arbitrations	\$400.00
Total	\$6254.71

Preliminary Matter

At the beginning of the hearing I informed the applicant that there were portions of her claim that I have no authority to award as they are costs of the dispute resolution process and I have no authority to award costs.

I have therefore dismissed the following portions from the claim, and dealt with the remainder of the claim:

Postage	\$37.06
Legal fees	\$2840.74
Landlord BC membership and fees	\$233.25
Time spent on letter to arbitrator	\$80.00
Time spent on office work for arbitrations	\$400.00
Total	\$3591.05

Background and Evidence

This tenancy began on October 20, 2012, and was ended with an Order of Possession on April 8, 2016.

At the beginning of the tenancy the tenants paid a \$600.00 security deposit, and a \$600.00 pet deposit for a total of \$1200.00.

Both a move in, and move out inspection report were completed and signed by the parties.

Repair window

The landlord testified that during the moveout inspection she did not notice that the window at the entry was cracked and therefore it was not listed on the inspection report.

The landlord further testified that the cost to have that window repaired was \$227.08 and she believes the tenant should be paying for that repair.

The tenants testified that there was a thorough moveout inspection report done, and there is no mention of a cracked window on that report. They further testified that if the window was cracked, it certainly wasn't caused by them, and they do not believe they should be having to pay for this repair.

Holes in walls

The landlord testified that, at the end of the tenancy, there were many holes in the walls of the rental unit from both pictures, and from where the tenants had attached baby gates to the walls. The landlord further testified that there was also mold on the bedroom wall that she believes as a result of the tenants not properly heating the rental

unit. The landlord therefore believes that the tenants should be paying for the repairs and repainting of these walls.

The tenants testified that there were some screw holes in the walls from a safety gate and from pictures but they believe this is normal wear and tear over a three and half year tenancy. The tenants further testified that they caused no damage to any of the walls other than normal wear and tear and do not believe they should be having to pay any of this claim.

Floor repairs

The landlord testified that the floors in the rental unit were in good condition when the tenants moved in, except for a few minor scratches, however when the tenants moved out there was huge damage on the floor and, although the floor should actually be replaced at a cost of over \$6000.00, she is only asking for cosmetic repairs to the floor totaling \$210.00.

The tenants testified that, if you look at the move-in inspection report, it notes that there was damage to the floors when they moved in, and when they moved out they left the floors in exactly the same condition. They did not cause any damage whatsoever to the floors. The tenants further pointed out that the landlord did not list any damage on the moveout inspection report.

Cleaning

The landlord testified that when the tenants vacated the rental unit they left the unit in need of significant cleaning and as a result she had to pay to have the rental unit clean at a total cost of \$720.00. She further testified that she has provided a copy of the invoice from the cleaning company that clearly shows that there was a total of 24 hours of cleaning required.

The tenants testified that, they agree that some cleaning was required when they vacated the rental unit; however they believe that they left the rental unit reasonably clean and even on the moveout inspection report, which the landlord signed, it states that the house is in fairly clean condition, with some additional cleaning needed.

The tenants further testified that they therefore believe that they do owe for some cleaning and that they believe a reasonable amount would be \$210.00.

In response to the tenants testimony the landlord testified that although it does state on the moveout inspection report that the houses in fairly clean condition, that was written on the report by the tenant and the only reason she signed the report was because the tenant had threatened to rip the report up.

In response to the landlord's claim that they had threatened to rip up the report, the tenant testified that no such threat was ever made and that the report was filled out with the full participation and cooperation of both the landlord and the tenant.

Window blinds

The landlord testified that all the strings on the window blinds in the master bedroom were ripped off or damaged and therefore the blinds could not be used and had to be replaced. She further testified that she is not sure of the age of these blinds but believes they were probably about seven years old.

The tenants testified that the blinds wore out under normal use and were also damaged by the sun. They further testified that it is their belief that these blinds were far older than seven years, and this damage is just normal wear and tear for quite old blinds.

April 2016 rent

The landlord testified that the tenants did not pay any rent for the month of April 2016, even though they did not vacate until April 18, 2016. The landlord further testified that the cleaning and repairs that were needed at the end of the tenancy were not completed until April 20, 2016, and therefore she believes the tenants should be paying rent for the month of April 2016, or at least until April 20, 2016.

The tenants testified that they had initially disputed their notice to end tenancy however the Arbitrator found in favor of the landlord and therefore they vacated the rental unit as quickly as they could, once they got the arbitrators decision. They therefore believe that the rent should be prorated for the eight days they were in the rental unit in the month of April 2016 for a total of \$302.00; however they do not believe they should be paying the full month's rent.

Analysis

Window repair

It is my finding that the landlord has not met the burden of proving that the tenants damaged the window in the rental unit. There is no mention of any window damage on the moveout inspection report, and although the landlord claims that she did not notice the damage until after the report was completed, it is the landlords responsibility to ensure that a proper moveout inspection is done with the participation of the tenants, and, if the landlord fails to do a complete inspection, the landlord cannot then come back at a later date and state that new damage was found that was not shown at the time of the original inspection.

The landlord claims that the reason the moveout inspection report does not list all the damages is because the tenant had threatened to rip up the report if the landlord did not sign it as it was; however it is my finding that the landlord has not met the burden of proving this claim, and therefore I accept the report as it was when a copy was given to the tenants.

I therefore deny the landlords claim for the window repair.

Holes in walls

I also deny the landlords claim for wall repairs. First of all, it's not unreasonable for tenants to put a few holes in the walls for things such as pictures and baby gates, and therefore the landlord should expect to have some repairs to do at the end of the tenancy. Further, although the landlord claims that the mold on the walls was due to the tenants failure to heat the rental unit properly she has provided no evidence in support of that claim.

Floor repairs

It is also my finding that the landlord has not met the burden of proving that the tenants caused damage to the floor in the rental unit as, again, there is no mention of any new floor damage on the moveout inspection report, and as stated above it is my decision that the landlord is bound by that report.

I therefore deny the landlords claim for floor repairs.

Cleaning

Under the Residential Tenancy Act a tenant is responsible to maintain "reasonable health, cleanliness and sanitary standards" throughout the premises. Therefore the landlord might be required to do extra cleaning to bring the premises to the high standard that they would want for a new tenant. The landlord is not entitled to charge the former tenants for the extra cleaning. In this case it is my decision that the landlord has shown that there was some extra cleaning required; however it is my finding that the amount claimed by the landlord is excessive especially since the moveout inspection report states that the house is fairly clean.

The tenants have agreed that some cleaning was required and have provided an estimate for the cost of that cleaning in the amount of \$210.00 it is my finding that that is a reasonable amount for the tenants to pay for the extra cleaning required.

I therefore allow \$210.00 of the landlords claim for cleaning and the remainder of that claim is dismissed without leave to reapply.

Window blinds

I deny the landlords claim for replacing window blinds because these blinds were quite old, and I accept that this damage likely occurred due to normal wear and tear, as stated by the tenants. The landlord has provided no evidence to show that this damage was the result of any willful or negligent actions on the part of the tenants.

April 2016 rent

It is my decision that I will allow nine days of prorated rent for the month of April 2016. The tenants were in the rental unit until 8 April 2016 and therefore must pay rent for those dates. I also allow for one further day of rent due to the fact that the tenants admitted that they did not leave the rental unit properly cleaned, and therefore I have allowed one day further rent for the time it would take the landlord to have the rental unit cleaned.

The landlord was claiming \$1133.00 for a full month rent, and therefore nine days of rent comes to a total prorated amount of \$339.90.

Filing fee

As I have only allowed a small portion of the landlords claim, it is my decision that the landlord must bear the \$100.00 cost of the filing fee.

Conclusion

I have allowed \$549.90 of the landlords claim and I therefore order that the landlord may retain \$549.90 of the tenant's security deposit. The remainder of this claim is dismissed without leave to reapply.

I have issued an order for the landlord to return the remainder of the tenants security deposit and pet deposit totaling \$650.10, to the tenants.

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 23, 2017

Residential Tenancy Branch