



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD MNDC FF

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the *Residential Tenancy Act* (the "Act") filed July 13, 2016. The landlord seeks authorization to retain all or part of the tenant's security deposit and/or pet damage deposit, and seeks a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and recovery of the filing fee.

The landlord attended the teleconference hearing and was given the opportunity to provide affirmed testimony, refer to the evidence she had submitted, make submissions and ask questions.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), Application for Dispute Resolution (the "Application") and documentary evidence was considered. The landlord testified that the Notice of Hearing, Application and documentary evidence were served on the tenant by registered mail sent July 15, 2016 to the forwarding address provided by the tenant. A Canada Post Registered Mail receipt was provided in evidence. I accept that the tenant was sufficiently served.

Issues to be Decided

Is the landlord entitled to a monetary order under the Act, and if so, in what amount?

What should happen to the tenant's security and pet deposits under the Act?

Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on December 1, 2015. Rent of \$1000.00 was due on the first of each month. The tenant paid a security deposit of \$500.00 and a pet deposit of \$250.00 at the beginning of the tenancy, both of which the landlord still holds.

The landlord's monetary claim is for irreparable damage to the carpets in two bedrooms caused by cat urine and feces. The claim is for \$1,788.32, comprised of the following:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Attempted carpet cleaning and subsequent carpet removal	\$315.00
2. Carpet and underlay purchase and install	\$1,160.12
3. Carpet disposal	\$10.00
4. Concrete sealant	\$53.20
5. 7 days of rent refunded to new tenant	\$250.00
TOTAL	\$1,788.32

The invoice for item #1 shows that the cleaning cost \$85.00 and the "tear out" cost \$215.00, both before tax of 5%.

The landlord also seeks return of the \$100.00 filing fee.

The landlord testified that the tenancy ended on June 31, 2016 and that the landlord and the tenant conducted a condition inspection on that day. The condition inspection report, which is in evidence, records that both bedroom carpets were "saturated in cat urine and feces."

The landlord further testified that because she was shocked at the state of the carpets and unsure about how to proceed, she asked the tenant to return in order to finalize the report the next day. The landlord then attempted to connect with the tenant least three times in the next three days in order to finalize the condition inspection report, including by driving to the tenant's mother's home, which he had provided as his forwarding address, and leaving the inspection report with the tenant's mother. The landlord sent the tenant text messages twice with suggested dates and times for meeting. The tenant

was consistently unresponsive and has not signed off on the report.

The landlord provided an invoice from the carpet cleaning company. Its "remarks" section states: "Upon initial cleaning it was observed that the carpet was heavily stained with urine. The first bedroom was cleaned and the smell and stain returned. We returned and ripped out the carpet and underlay, and cleaned the subfloor/concrete."

The landlord also provided photographs of the carpets that were removed. One of the photographs is of the underside of the carpet, which has multiple stains on it. The number of stains on it is consistent with a report from a carpet cleaning company also in evidence that says ">20 spots of 8 inch or larger stains."

The landlord testified that the carpets were installed in 2009, that they were good quality, that she has the same carpets in her home, and that they were in "like new" condition. This is consistent with the photographs of the top surface of the carpets that were removed.

In terms of losses suffered, the landlord testified that the tenant who was supposed to have moved in on July 1 was unable to do so because the smell in the bedrooms was so offensive. The landlords were therefore required to refund the new tenant a week of rent and replace the carpets before she moved in. A copy of a cheque from the landlords to the new tenant for \$250.00 was in evidence.

All of the costs claimed for carpet cleaning, removal, disposal, and replacement, as well as the cost of the concrete sealant, were also supported with documentary evidence.

Analysis

As the tenant was served with the Notice of Hearing, Application and documentary evidence and did not attend the hearing, this matter unopposed by the tenant. As a result, I find the landlord's application is fully successful in the amount claimed.

There is no question that the carpets were irreparably damaged and needed to be replaced. The landlord first attempted the less expensive option of having them cleaned, but this was not successful. It is also clear that the concrete flooring had to be cleaned and sealed as a result of the cat urine. Accordingly, I grant the landlord the cleaning cost portion of item #1 and the cost of the concrete sealant set out in item # 5, representing **\$142.45** in total (89.25 [\$85.00 + tax] + \$53.20).

I also accept that the subsequent tenant was unable to move in for the initial week of

her tenancy and that the landlord suffered a loss as a result. Accordingly, I grant the **\$250.00** in lost rent.

The Residential Tenancy Branch's Policy Guideline #40 sets out the useful life expectation of various parts of a building. Under Guideline #40, an arbitrator may consider the useful life of a building element and the age of the item when assigning a value to a landlord's loss. Carpets are listed as having a useful life of 10 years. The landlord has testified that the carpets at issue were approximately seven years old. However, the landlord has also testified that the carpets were in very good condition before they were damaged by the tenant's cat, and the photographs submitted by the landlord support this. I also note the carpets were in the bedrooms, which are not high traffic areas, and that if the carpets had not been saturated in urine, the underlay may not have had to be replaced when they were next changed out.

Under other circumstances I would award only the percentage of useful life remaining in the carpet as set out in the Policy Guideline (30% of the amount claimed, representing 3 remaining useful years out of 10). Based on the evidence set out above, however, I find that this bedroom carpet was in better than average condition, and would have lasted another five years. Accordingly, I award 50% of the total cost claimed, or **\$697.35**, calculated as 50% of \$1,395.87 (\$225.75 [\$215.00 plus tax] for removal + \$10.00 disposal + \$1,160.12 replacement).

As the landlord is successful, I also award the **\$100.00** filing fee.

In total, then, I award the landlord **\$1,189.80**.

The landlord continues to hold the tenant's security and pet deposit in the totals amount of \$750.00, which has not accrued any interest to date.

I authorize the landlord to retain the tenant's full security deposit and pet deposit in the total amount of \$750.00 in partial satisfaction of the landlord's monetary claim.

I grant the landlord a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlord in the amount of **\$439.80**.

Conclusion

The landlord's application is successful.

The landlord has been authorized to retain the tenant's full security and deposits of \$750.00 in partial satisfaction of the landlord's monetary claim.

The landlord has been granted a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlord in the amount of **\$439.80**.

The landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the Residential Tenancy Act.

Dated: January 16, 2017

Residential Tenancy Branch