



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, FF

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;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. The landlords stated that both the tenants were served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on September 27, 2016 and has submitted copies of the Canada Post Customer Receipt Tracking labels as confirmation. The tenants confirmed service as claimed by the landlords. Both parties agreed that the landlords stated that the tenants were served with the submitted documentary evidence in person on February 2, 2017. Both parties agreed that the tenants served the landlords with the submitted documentary evidence on February 9, 2017 via Canada Post Registered Mail. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been sufficiently served as per section 90 of the Act.

Issue(s) to be Decided

Are the landlords entitled to a monetary order for damage to the unit and recovery of the filing fee?

Are the landlords entitled to retain all or part of the security deposit?

Background and Evidence

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

This tenancy began on May 1, 2015 on a fixed term tenancy ending on April 30, 2016 as shown by the submitted copy of the signed tenancy agreement dated March 31, 2015. The monthly rent was \$3,500.00 payable on the 1st day of each month. A security deposit of \$1,750.00 was paid on May 1, 2015.

The landlords seek a monetary claim of \$2,520.00 which consists of:

\$1,220.00	Cleaning
\$300.00	Walls and Window Frame Touchups
\$400.00	Repair Hardwood Flooring Scratches, Repair towel rack and bathroom cabinet
\$200.00	Repair bathroom sink and tub stoppers
\$300.00	Repair built-in vacuum cleaner
\$100.00	lightbulb replacement

The landlords provided affirmed testimony that when the tenant returned possession of the rental unit it was discovered that the tenant left it dirty and damaged. The tenant disputes these claims stating that the rental unit was left clean at the end of the tenancy. The landlord clarified that the tenant failed to do any cleaning which resulted in 80 hours of labour to clean, vacuum and steam clean stained carpets, vacuum floors, window frames and the fridge. The landlord claims that the tenant left the walls damaged with scratches and marks, a damaged towel rack, damaged stoppers for the bath and sink, 15 burnt out lightbulbs and a damaged vacuum accessory head.

The landlords have submitted in support of these claims:

- Copy of signed tenancy agreement dated March 31, 2015
- Copy of Completed Condition Inspection Report, Move-In dated May 2, 2015
- Copy of Incomplete Condition Inspection Report, Move-Out dated August 31, 2016
- 15 Photographs showing the condition of the rental premises on the Move-Out
- Copy of email general cleaning quote for \$1,160 plus GST.

The landlord provided affirmed testimony that he personally cleaned the rental premises which took 80 hours to clean:

- 4 bathroom fans (15 min. each)
- 2 stove exhaust fans (1 hour)
- Vacuum Stained Carpet (3 hours)
- Steam Clean Carpet (4 hours)
- Clean Window (15-17) Frames (6 hours)
- Wash Walls (4-5 hours)
- Vacuum Floors (3 hours)
- Clean Cabinets (4-5 hours)
- Clean Fridge (45 min.)

The tenant disputes the landlords' claims actual monetary amount claim as the landlord has failed to provide any evidence of any costs incurred. The tenant did agree that some areas were left dirty which would require some cleaning such as the bathroom fans, the towel rack and the stains on the patio left from the bbq. The tenant argues that the landlord has not provided any evidence of dirty cabinets or of the hours worked to clean. The tenant also confirmed that the floors were left a little dirty as per the landlords' photograph #14 showing the dusty floor. The tenant argued that there was no scratches on the floors, but stated that some minor wear and tear to the floors is evident. The tenant had commented that he is not aware of any damage to the bathroom and sink stoppers, the accessory head of the vacuum cleaner or the number of burnt out light bulbs. The tenant submitted a copy of an email quote for cleaning based upon square footage for a cost of \$\$500.00 plus GST to dispute the landlords cleaning quote as unreasonable.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

I find on a balance of probabilities that the landlord has failed to establish the claim of \$2,520.00. Although the landlords submitted a completed condition inspection report for the move-in and 15 photographs showing the rental unit at the end of the tenancy, the landlords have failed to provide sufficient evidence to support the entire claim of \$2,520.00. The landlords failed to provide any invoices/receipts for any costs incurred and rely upon the estimated costs based upon an email quote, his experience and internet searches. This was contradicted by the tenant's submissions and the tenant's email quote for cleaning. The landlord had failed to provide sufficient evidence of the cleaning with no records of the 80 hours worked or what was cleaned. The landlords' details only provide for approximately 37 hours of labour. The landlord also failed to provide copies of any of these internet searches to justify these claims. On this basis, I find that the landlord has failed to justify his claims. However, as the tenant has acknowledged that some areas were left dirty, a towel rack was damaged, was not aware of the damaged bathroom and sink stoppers, a damaged vacuum accessory head and that there were 15 burnt out light bulbs, I grant the landlord an arbitrary nominal award of \$250.00.

I grant the landlord partial recovery of the filing fee of \$50.00. In offsetting these awards, I authorize the landlord to retain \$300.00 from the \$1,750.00 security deposit currently held. The landlord must return the remaining \$1,450.00 to the tenant.

Conclusion

The landlord may retain \$300.00 from the security deposit.

The tenant is granted a monetary order of \$1,450.00 for return of the remaining portion of the security deposit.

This order must be served upon the landlord. Should the landlord fail to comply with the order, the 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 06, 2017

Residential Tenancy Branch

