



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PEMBERTON HOLMES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MND, FF

Introduction

On November 28, 2016, the Landlord submitted an Application for Dispute Resolution for a monetary order for damage to the unit; and to recover the cost of the filing fee.

The matter was scheduled as a teleconference hearing. The Landlord and Tenants attended the hearing. At the start of the hearing I introduced myself and the participants.

The Landlord and Tenants provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The Tenants testified that they received a copy of the Landlord's documentary evidence. The Tenants did not submit any documentary evidence in response to the Landlord's application.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Landlord entitled to compensation for damage to the unit?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The parties testified that the tenancy agreement began on June 1, 2016, as a 3 month fixed term tenancy. The Tenants were to pay rent in the amount of \$1,900.00 per month. The Tenants paid the Landlord a security deposit of \$900.00. The Landlord provided a copy of the tenancy agreement.

The Landlord testified that when the Tenants moved out on August 31, 2016, there was cleaning and repairs needed in the rental unit.

The Landlord testified that the parties participated in a move out inspection on August 31, 2016. The Landlord testified that the Tenants signed over the security deposit of \$900.00 in partial satisfaction of the cleaning and damage to the rental unit.

The Tenants acknowledged that they agreed to sign over the security deposit of \$900.00.

The Landlord is seeking to recover additional compensation. The Landlord provided a copy of a Condition inspection Report dated August 31, 2016 in support of her claims.

Utility Bill water	\$263.65
Cleaning	\$279.30
Carpet Cleaning	\$286.65
Painting	\$787.50
Lawn	\$441.00
Repairs	\$194.25

Utility Bill

The Landlord testified that the Tenant owes \$263.65 for a water bill. The Landlord submitted that the Tenants were responsible to pay for water. The Landlord provided a copy of the tenancy agreement in support of her testimony. The Landlord provided a copy of a water bill in the amount of \$263.65.

In response to this claim, the Tenants submitted that the parties agreed at the time of the move out inspection that the water bill would be paid for using the security deposit.

Cleaning

The Landlord testified that the Tenants left the rental unit unclean and a cleaner was hired to clean the rental unit after the Tenants moved out. The Landlord submitted that the kitchen, bathroom, baseboards, windows, floors needed to be cleaned. The Landlord provided photographs showing the state of rental unit on the day of the move out. The Landlord testified that the cleaner was paid \$30.00 per hour to clean the rental unit. The Landlord provided a copy of an invoice in the amount of \$279.30.

In response to this claim, the Tenants submitted that they cleaned the rental unit for hours before they moved out and they did the best they could.

Carpet Cleaning

The Landlord testified that the tenancy agreement requires that the carpets be cleaned at the end of the tenancy. The Landlord testified that the carpets were clean at the start of the

tenancy. The Landlord testified that the carpets were still dirty after the Tenants cleaned the carpets. The Landlord referred to her photographic evidence of the condition of the carpets.

In response to this claim, the Tenants submitted that they hired a cleaning company to clean the carpets the day before the move out inspection.

Painting

The Landlord is seeking \$787.50 for the cost of materials and labour to paint the interior of the rental unit. The Landlord testified that the walls had marks and damage. The Landlord submitted that the Tenants agreed to do the painting but only painted over spots. The Landlord testified that the walls looked spotted because the Tenant used the wrong paint color and the walls needed to be repainted. The Landlord testified that the hallway and bedrooms were repainted. The Landlord referred to her photographic evidence to support her claim. The Landlord provided a receipt for the cost of the painting.

The Landlord did not know when the rental unit was previously painted and acknowledged that the walls were not perfect when the Tenants moved into the unit.

In response to this claim, the Tenants submitted that the paint on the walls were patchy when they moved into the unit. The Tenant testified that there are four different colors of yellow paint and it cost him \$300.00 to get paint. The Tenants testified that the condition inspection report shows that the paint in the bedroom and den was poor at the start of the tenancy.

Lawn

The Landlord testified that the tenancy agreement requires the Tenants to maintain the lawn and garden. The Landlord testified that the Tenants did not maintain the yard and garden and they needed to be cleaned up after the Tenants moved out. The Landlord referred to her photographic evidence showing the condition of the yard at the end of the tenancy. The Landlord provided an invoice for the yard work. The invoice for \$441.00 is dated August 31, 2016.

In response, the Tenants submitted that the Landlord completed the landscaping work prior to the Tenants moving out. The Tenant submitted that the Landlords photos of the yard were taken prior to the Tenants moving out. The Tenant testified that he went to clean up the yard and noticed that everything had been done. The Tenant testified that a portion of the Landlords claim includes removal of a raised garden bed and removal of blackberry bushes on the other side of the property line.

Repairs

The Landlord did not provide any testimony regarding the claim in the amount \$194.25 for repairs. The Tenant did not provide any testimony in response to the claim.

Since testimony was not taken on this claim, I dismiss the claim with leave to reapply.

Analysis

Section 21 of the Residential Tenancy Regulation states:

in dispute resolution proceedings, a condition inspection report completed in accordance with this Part 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.

The Residential Tenancy Policy Guideline # 16 Claims in Damages states:

An arbitrator may award monetary compensation only as permitted by the Act or the common law. In situations where there has been damage or loss with respect to property, money or services, the value of the damage or loss is established by the evidence provided.

An arbitrator may also award compensation in situations where establishing the value of the damage or loss is not as straightforward:

A party seeking compensation should present compelling evidence of the value of the damage or loss in question.

Based on all of the above, the evidence and testimony, and on a balance of probabilities, I find as follows:

Utility Bill

The Tenants acknowledged that they owe the Landlord for the utility bill.

The Landlord is granted \$263.65 for the water bill.

Cleaning

The Landlord has provided the stronger evidence to establish that the rental unit was left unclean. I accept the Landlord's testimony and photographic evidence that rental unit was left unclean.

The Landlord is granted \$279.30 for the cost of having the rental unit cleaned.

Carpet Cleaning

The Residential Tenancy Policy guideline #1 Landlord & Tenant – Responsibility for Residential Premises states:

The tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. Where the tenant has deliberately or carelessly stained the carpet he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of tenancy.

I find that the condition inspection report indicates that the carpets were clean at the start of the tenancy. I accept the Landlord testimony and photographic evidence that the carpets were dirty at the end of the tenancy.

I award the Landlord \$286.65 for the cost of carpet cleaning.

Painting

A Landlord is responsible for painting the interior of a rental unit at reasonable intervals.

The Residential Tenancy Policy Guideline # 40 Useful Life of Building Elements states that the useful life of interior paint is 4 years. The Guideline provides:

If an arbitrator finds that a Landlord makes repairs to a rental unit due to damage caused by the Tenant, the arbitrator may consider the age of the item at the time of replacement and the useful life of the item when calculating the tenant's responsibility for the cost or replacement.

I award the Landlord 50% of the amount claimed. I find that the Landlord acknowledged that the walls of the rental unit were not perfect when the Tenants moved into the unit. The Landlord's agent did not know when the rental unit had been previously painted and the condition inspection report indicates that the paint was poor on some walls. I have also considered that the Tenant attempted to paint the walls but left the walls looking spotted. In the circumstances, I find it reasonable for the parties to share the cost of painting equally.

I award the Landlord \$393.75 for the cost of painting.

Lawn

I find that the Landlord had the yard work completed prior to the end date of the tenancy. The Tenants were not given an opportunity to complete the work in the yard.

I also accept the Tenant's testimony that the Landlords claim included the removal of items that were not the Tenants responsibility. The Landlord's claim for \$441.00 is dismissed.

Filing Fee

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was partially successful with the application, I order the Tenants to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

The Landlord has established a monetary claim in the amount of \$1,323.35. The Tenants previously signed over the security deposit of \$900.00 towards bills, cleaning, and repairs. I grant the Landlord a monetary order for the balance of \$423.35. The order must be served on the Tenants and may be enforced in the Provincial Court.

Conclusion

I find that the Tenants owe the Landlord the amount of \$323.35 for cleaning and repairs and \$100.00 for the filing fee. I grant the Landlord a monetary order in the amount of \$423.35.

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: June 19, 2017

Residential Tenancy Branch