



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Concorde Painting
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, FF

Introduction

This is an application brought by the Landlord(s) requesting a monetary order in the amount of \$5081.42, and requesting recovery of the \$100.00 filing fee

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 respondents, and if so in what amount.

Background and Evidence

This tenancy began on April 15, 2013 and ended on January 29, 2016.

Both a move-in inspection report and a move-out inspection report were completed for this tenancy.

The landlord testified that the kitchen counters in this rental property were in good condition at the beginning of the tenancy, however, in April of 2015, the landlord discovered that kitchen counters had been badly damaged from the leaking tap that was not reported to the landlord in a timely manner, and, as a result, the kitchen counters had to be replaced as they were not repairable. The landlord further testified that all the kitchen counters had to be replaced, and not just the damage one because it was no longer possible to match the laminate that was in the rental unit.

Landlord further testified that the total cost repair encounters was \$4521.71.

The landlord further pointed out that in an e-mail exchange with the tenants the tenant had stated that the damage to the countertop in the kitchen is understandable, and therefore it's obvious that the tenants were aware that they were responsible for this damage.

The landlord testified that, due to high use of the bathroom in the rental unit, the humidity in the bathroom damaged the cabinet doors, and as a result the doors had to be replaced at a cost of \$525.00. The landlord further states that, on numerous occasions when he attended at the rental unit, he found that the tenants had turned off the automatic humidistat that would have turned on automatically when the humidity got too high, however, since it was off, the fan did not automatically remove moisture from the bathroom.

The landlord further testified that, at the end of the tenancy they found damage to a bedroom door handle that looked like a screwdriver had been jammed in the lock, and therefore that door handle had to be replaced at a cost of \$34.71.

In response to the landlords testimony the tenants testified that they did not notice any leaking in the kitchen until the kitchen counter had already started to swell, and, when they did notice it, they phoned the landlord to inform him. They therefore do not believe they should be held liable for the damaged the kitchen counter, because the damage occurred before they noticed the leak and they inform the landlord once they did noticed the leak.

The tenants further testified that they do not believe they should be held liable for the damage to the bathroom cabinet doors as they turned the fan on every time they use the bathroom, however they did not leave it running all the time.

The tenants further testified that they did not cause any damage to a bedroom door knob, and they believe that damage already existed when they moved into the rental unit and was so minor that it was not notice at the time of the move-in inspection. They further stated that they did not even notice it until the landlord pointed out.

In response to the tenants testimony the landlord stated that he never received a phone call from the tenants to inform him of any leaking or damage to the kitchen counter and he was unaware of the damage until it was shown to them on a visit in April of 2015 and

at that point it was obvious it had been leaking for quite some time, and he finds it hard to believe the tenants testimony that they did not notice that it had been leaking.

In response to the tenants claim that they used the fan when they were using the bathroom, the landlord stated that the automatic humidistat would have ensured that the fan would run if the humidity in the bathroom was too high, however, again the tenants were not using the humidistat and had it turned off.

In response to the tenants claim that they did not damage a lock in the rental unit, the landlord stated that the move-in inspection report does not list any damage to a lock, and the move-in inspection was thoroughly done, and such damage would have been noted.

The tenant question the landlord as to why the landlord had not gotten more than one quote before doing the repair and simply went ahead with the repair based on the single quote. In response to that question the landlord stated that in order to get the rental unit back in rentable condition, and thereby mitigate any possible loss rental revenue, he went ahead and got the repairs done with the company from whom he has submitted the invoice.

Analysis

After reviewing the evidence supplied by the landlord, including the numerous photos, it's my finding that I find it very unlikely that the tenants were not aware that the taps in the kitchen were leaking, as the damage is quite significant. It is my decision therefore that the tenants are liable for a portion of the amount claimed by the landlord for repairing this damage.

It is my decision however that I will not allow the full amount claimed by the landlord or two reasons, first of all the landlord only got one quote for this repair and therefore there's no way of knowing whether this repair could have been done for lower price, and secondly awards for damages are intended to be restorative, meaning the award should place the applicant in the same financial position had the damage not occurred. Where an item has a limited useful life, it is necessary to reduce the replacement cost by the depreciation of the original item. In this case, the landlord testified that these cabinets were approximately 13 years old and therefore since the Residential Tenancy Policy Guideline number 40 lists the useful life of counters as 25 years, the amount allowed must be reduced by 52% to allow for normal depreciation.

Therefore, as stated above I am not going to allow the full amount claimed as the landlord did not get multiple quotes, however I will allow a base amount of \$4000.00 and reduce that by the depreciation of 52% leaving a balance of \$1920.00.

I will not however allow the landlords claim for replacing the doors in the bathroom as there is insufficient evidence to show that this damage was the result of any negligence on the part of the tenants. The tenants claim that this damage occurred under normal use, and that they had used the fan whenever the bathroom was used, and although the landlord believes the damage occurred as a result of the tenant's failure to use the humidistat, there is insufficient evidence to support that claim.

I will allow the landlords claim for replacing the damaged door knob however, as it's clear on the move-in inspection report that the damage did not exist at the beginning of the tenancy.

Having allowed a significant amount of the applicant's claim I also allow the request for recovery of the \$100.00 filing fee.

It is my decision therefore that, pursuant to section 62 of the Residential Tenancy Act the total amount of the claim that I have allowed is as follows:

kitchen counter repair	\$1920.00
Replace bedroom door handle	\$34.71
Filing fee	\$100.00
Total	\$2054.71

Conclusion

As stated above I have allowed a total claim of \$2054.71 and have issued a monetary order in that amount. The remainder of this application is dismissed without leave to reapply.

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: July 29, 2017

Residential Tenancy Branch