



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, MNR, FF

Introduction

In the first application the landlord seeks a monetary award for cleaning and repair to the premises after the end of the tenancy.

In the second application the tenant seeks recovery of the balance of his security deposit and recovery of a total of \$496.67 for repair costs to a dishwasher. The landlord's agent Ms. M.S. conceded the dishwasher repair costs at hearing.

The tenant has named Ms. M.S. as a respondent landlord. It is clear that only Mr. M.Z. is the tenant's landlord. Ms. M.S. is his agent and not a party to this dispute.

Both parties attended the hearing, the landlord by his agent Ms. M.S. and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Did the tenant fail to return possession of the premises in a reasonably clean state and free of damage but for reasonable wear and tear?

Background and Evidence

The rental unit is a two bedroom, condominium apartment. The tenancy started in August 2015 and ended February 28, 2017. The monthly rent was \$2800.00. The landlord received a \$1400.00 security deposit at the start of the tenancy.

On February 28, 2017 the parties, the tenant and a different agent on behalf of the landlord, conducted the required move-out inspection. A report was prepared and was signed by both. It was agreed that the landlord would keep \$100.00 of the deposit for carpet cleaning, \$15.00 for arranging the cleaning and \$10.00 for a "blind wand" that had been damaged.

At some time after the inspection the landlord attended and determined that the tenant was responsible for significantly more.

He claims:

1. Carpet Replacement,
2. Floor repair due to scratches,
3. Oven cleaning,
4. Bathtub repair,
5. Replacement of a kitchen cabinet light fixture,
6. Replacement of the kitchen sink,
7. Carpet cleaning, and
8. The blind wand replacement.

The tenant disputes all but items 7 and 8, which he had agreed to at the move-out inspection.

Ms. M. S. for the landlord says that contrary to the rules the tenant had a pet and the pet urinated on the carpeting, rendering it a total loss, requiring replacement. She says this was determined after the carpet cleaning was done. The landlord claims \$900.00 a replacement cost. The original carpet was installed in 2014. The work has not been done.

The tenant says he did not have a pet. He says that a pet bed shown in one of the landlord's photos was a gift he had purchased for a friend who had a dog.

Ms. M. S. withdrew the claim for oven cleaning at the hearing.

During the tenancy the landlord paid to have a small, hair-line crack in an acrylic tub repaired. Ms. M.S. says the damage has re-appeared. The tenant denies responsibility.

Ms. M.S. provided a photo of a light fixture that appears to be hanging or coming loose. She says the tenant installed light bulbs that were too hot and melted the fixture cover. The tenant says it is under a cabinet, untouched by him and is merely a loose screw.

Ms. M.S. testifies that the stainless steel twin sink in the kitchen has too many scratches in it. The tenant disagrees.

Ms. M.S. withdrew the \$10.00 claim for the blind wand.

The tenant points to the result of an inspection of the rental unit conducted by the landlord's representative in April 2016 and which indicated that his rental unit was meticulously maintained.

Analysis

The *Residential Tenancy Act* requires that a landlord perform a move-out inspection with a tenant and prepare a report. That requirement is intended to prevent disputes like this one by drawing the parties together to record and discuss the state of the premises.

Additionally, the move-out inspection affords each the opportunity to inspect and collect evidence about cleaning and damage that is not agreed to. Once a tenant has returned possession of a rental unit to a landlord the tenant is not at liberty to return, to observe, to assess or to record an item of damage or cleaning raised only after the tenant left.

A move-out report, while not decisive of the state of the premises at the end of a tenancy, it to be given significant weight.

As well, the determination of the parties at the inspection about the extent of observable damage and whether or not such damage is "reasonable wear and tear" will also be given significant weight. Any agreement reached between the tenant and the landlord's agent at the move-out inspection must be respected unless there is some overriding reason a party should not be bound by it.

The Carpet

The landlord's agent adduced photos of a carpet showing furniture indentations and a yellow or brown darkening of the carpet along the base of a wall.

The move-out report notes "stains" on the master bedroom carpet. The landlord had the carpet re-cleaned at the tenant's expense. The carpet cleaner noted that many yellow/brown stains that did not come out with the shampooing. He opined that they "could be from pet's urine."

The carpet cleaner's opinion that the stains "could be" from pet urine is not convincing proof that the stains were, in fact, the result of pet urine. Additionally, the discolouration does not appear in spots. It is in a form more associated with sun bleaching of the exposed areas of the carpet, leaving the darker areas, the areas over which there was furniture, unbleached.

I make no specific finding about the cause of the discoloration but to find that it has not been shown to be something caused by the tenant's action or inaction.

Additionally, the carpet discolouration was an item readily observable during the move-out inspection. The parties saw it and made their bargain that the carpet would be re-cleaned and that the landlord would keep \$100.00 from the deposit for that cost. I see no reason to upset that bargain.

This item of the claim is dismissed.

Floor Scratches

This item was observed by the parties during the move-out inspection and it was agreed that it was reasonable wear and tear. The fact that the landlord later disagreed with his agent's assessment at the move-out inspection is not a reason for overturning the agreement that was made. That is a matter between the landlord and his agent.

Tub Crack

The landlord's plumber's report indicates that the damage to the tub was likely caused by a piece of metal under the basin of the tub that could have caused the puncture and then further damage was caused by delamination of the tub's acrylic structure from water leaking through the crack.. The tenant did not put the piece of metal under the tub nor did he install the tub over it. He is not responsible for this damage and this item of the claim must be dismissed.

Kitchen Cabinet Light Fixture

The landlord's photos show a small, round, under-cabinet light fixture has come loose. The landlord paid a workman \$250.00 to replace it and another like it. This fixture was no longer available and new, different ones had to be installed.

The tenant insisted that the fixtures were readily obtainable.

The state of this fixture and the fact of whether the bulbs in either fixture were working or not, were facts easily determinable during the move-out inspection. The fact that no adjustment for them was made in the inspection report is, I find, conclusive of the matter and I dismiss this item of the claim.

Kitchen Sink

The landlord's photos show that the twin sink in the kitchen has suffered considerable scratching. In my view the scratching exceeds what one might expect to find it a domestic kitchen sink after three years. Whether or not all the scratching occurred during this tenancy cannot easily be determined since there is not mention of scratches in the sink in either the move-in or move-out report.

The state of the sink was something easily determinable during the move-out inspection. The fact that no adjustment for it was made in the inspection report is, I find, conclusive that the scratching was determined to be reasonable wear and tear, for which a tenant is not responsible, and I dismiss this item of the claim.

Conclusion

The landlord's claim is dismissed.

The tenant is entitled to recover his \$1400.00 security deposit less the amounts he authorized the landlord to keep after the move-out inspection. They are \$100.00 for carpet cleaning and \$15.00 for arranging the carpet cleaning. The landlord has waived a third item: \$10.00 for a blinds wand. The landlord was also entitled to GST on the carpet cleaning and job arranging but has not submitted evidence to substantiate that actual cost.

The remainder of the deposit money is \$1285.00. The tenant is also entitled to recover the dishwasher repair costs of \$496.67 for a total award of \$1781.67. The tenant is also entitled to recover the \$100.00 filing fee for his application.

In result the tenant will have a monetary award against the landlord in the amount of \$1881.67.

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: August 10, 2017

Residential Tenancy Branch