



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 was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damage to the unit - Section 67;
2. An Order to retain the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy of a furnished three bedroom and three bathroom unit started on April 1, 2016 and ended on March 15, 2017. At the outset of the tenancy the Landlord collected \$800.00 as a security deposit and \$300.00 as a pet deposit. The Landlord received the Tenant’s forwarding address on March 17, 2017. The Parties mutually conducted both a move-in and move-out condition inspection with reports for each completed and copied to the Tenant. No list of furnishings was provided to the Tenant or kept by the Landlord at the outset of the tenancy. The condition inspection reports do not include a notation of the move-in condition of any of the furnishings other than the den couch.

The Tenant owes the Landlord **\$73.83** for the costs of replacing a remote and changing the locks.

The Landlord states that the Tenant left the unit unclean and with damages and claims as follows:

- \$595.00 for the costs of cleaning the unit, invoice without detail provided;
- \$350.00 for the cost of replacing 5 chairs, approximately 4 years old, invoice provided;
- \$73.83 for the replacement cost of a garage remote and to change locks;
- \$246.32 for the costs to replace missing pots, pans and a laundry hamper;
- \$53.66 for the replacement cost of bedsheets;
- \$150.66 for the replacement costs of missing dishes and pillows; and
- \$306.18 as the estimated cost to replace a window, estimate provided.

The Landlord claims the estimated costs of registered mail.

The Tenant states that at move-in the unit was not sufficiently cleaned. The Tenant states that although she cleaned the unit at move-out some items were missed, such as cleaning the window tracks and dusting. The Tenant states that the appliances were not on wheels and no cleaning was done underneath the appliances.

The Tenant states that at move-in scratches were already on the chairs and that the Agent who was with them at move-in, told the Tenants not to worry about the furniture as it was all used. The Tenant states that the chairs appeared to be 5 or 6 years old.

The Landlord states that a complete 4 year old set of 3 pots and 1 pan was missing at the end of the tenancy. The Landlord states that three 4 year old hampers were also missing. The Landlord claims \$90.00 for the three hampers and \$89.99 for a 10 piece replacement set of stainless steel pots and pans. The Tenant states that the pots and pans that were in the unit were not a matched set and that they were disgusting so the

Tenant put them into storage at the side of the house during the tenancy and then returned to the unit when they moved. The Tenant states that there were only 2 hampers that she can recall and that the Tenant does not dispute the replacement cost of 1 hamper that may have contained the children's toys and may have been taken by the movers in error.

The Tenant states that all the furnishing in the unit was "garage sale stuff" and that as the Landlord also rents out two other furnished units the purchased items could have been for the other units.

The Landlord states that eight 3, 4 or 5 year old bedsheets were missing and claims \$53.66 for the costs to replace these items. The Tenant states that at the end of the tenancy she made sure all the beds were made with 2 sheets per bed and that at move-in there were less than 2 sheets on each bed. The Tenant states that she is not responsible for any missing sheets.

The Landlord states that each bed had two 5 year old pillows and that the Landlord purchased two replacement pillows at \$14.97 each. The Landlord states that they do not know what dishes were present originally but that there were no dishes at the end of the tenancy. The Tenant states that she did not take any pillows or dishes. The Tenant state that at move-in the dishes were all mixed and none matched and that the pillows and dishes were present at move-out.

The Landlord withdraws its claim for window shade replacement as the Landlord states that they were cheap temporary shades. The Tenant states that the shades were torn and ripped so the Tenant disposed of them.

The Landlord states that the master bedroom window was cracked and that they were new in 2011 when the unit was built. The Landlord states that these were replaced in June 2017 for the same costs as the estimation provided for the claim. The Landlord

did not provide a paid invoice for this item. The Tenant states that there was no window covering for that window and that it was not known to be cracked until discovered at move-out. The Tenant has no idea how the crack occurred.

Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. This section further provides that where a landlord or tenant claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement the claiming party must do whatever is reasonable to minimize the damage or loss. Given the photos of the unit and considering its size I find that the Landlord has claimed an excessive amount for the minor cleaning that was left. I also note that there is no evidence of any attempt to mitigate cleaning costs such as the provision of estimates for the job. I find that the Landlord is therefore not entitled to the sum claimed. However as the Tenant has agreed that some cleaning was missed and I do not consider the Tenant to be responsible for cleaning under appliances that have no wheels, I find that the Landlord is entitled to a nominal sum of **\$100.00**.

Policy Guideline #40 provides that furniture has an average life of 10 years. Given the Tenant's plausible evidence of previous damage and noting that there is no condition inspection report detailing the state of the furniture I find that the chairs did have some pre-existing damage. As a result I find that the Landlord has not substantiated that the Tenant is responsible for all the damage to the chairs and therefore the Landlord has not substantiated that the Tenant is responsible for the total replacement costs of the chairs. Given the Tenant's evidence that some damage was caused during the Tenant's tenancy I find that the Landlord has only substantiated a nominal amount of **\$100.00** for the Tenant's contribution to the damage.

Based on the agreed facts I find that the Landlord has substantiated the costs of **\$73.83** for the remote and locks.

Given the lack of an itemized list of furnishings for the unit and considering the Tenant's plausible evidence in relation to the pots and hampers I find on a balance of probabilities that the Landlord has only substantiated the cost of 1 hamper that the Tenant does not dispute in the amount of **\$30.00**. I dismiss the claims for replacement of the pots and pans.

Given the evidence of the bedsheets being as old as 5 year years, without evidence of original high quality sheets, and considering the Tenant's plausible evidence of cheap furnishings I find that there was likely no real value left to the sheets at the end of the tenancy and I dismiss the claim for the replacement costs of new sheets. Given the lack of an inventory of the dishes, I find that the Landlord has not substantiated the loss claimed for this item and I dismiss it. Given the age of the pillows, without evidence of a high quality original pillow I find that there was likely no useful life left to the pillows and I dismiss this claim.

In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia that costs for the damage or loss have been incurred. Given the lack of a paid invoice for a replacement window I find that the Landlord has not substantiated that it incurred the costs claimed and I dismiss this cost.

As nothing in the Act provides for reimbursement of costs of the proceedings other than the filing fee I dismiss the claim for the registered mail costs. As the Landlord's application has been met with minimal success I find that the Landlord is only entitled to recovery of half the filing fee in the amount of **\$50.00**. This brings the Landlord entitlement to a total of **\$353.83**. Deducting this amount from the combined pet and

security deposit plus zero interest of **\$1,100.00** leaves **\$746.17** to be returned to the Tenants forthwith.

Conclusion

I Order the Landlord to retain \$353.83 from the security deposit plus interest of \$1,100.00 in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for **\$746.17**. If necessary, this order may be filed in the Small Claims 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: September 1, 2017

Residential Tenancy Branch