



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding THE POPPY RESIDENCES
and [tenant name suppressed to protect privacy]

DECISION

Code MND, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for damages to the unit, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee.

Both parties appeared, gave affirmed testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the landlord entitled to monetary compensation for damages?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on April 1, 2013. Current rent in the amount of \$1,924.00 was payable on the first of each month. The tenant paid a security deposit of \$500.00. The tenancy ended on March 31, 2017. The parties agreed a move-in and move-out condition inspection report was completed.

The landlord testified that the carpets were in good condition at the start of the tenancy agreement and it was the tenant's responsibility to ensure the carpets were kept clean during their tenancy. The landlord stated that the carpets were stained and in poor condition at the end of the tenancy. The landlord stated that they seek to recover 4/10 of the replacement cost as they have considered the useful life span of the carpet. The

landlord seeks to recover the amount of \$483.00. Filed in evidence is a receipt and photographs.

The tenant's POA testified that the landlord provided cleaning services throughout the tenancy and the issue of carpet cleaning was never brought to their attention. The POA stated that they believe the carpet was worn from reasonable wear and tear. The POA stated that the design of the unit only allows the traffic of people to travel in the same pattern, causing additional wear to this one area. The POA stated that they also had someone look at the quality of the carpet and the carpet is not a good quality to begin with. Filed in evidence is a letter from a carpet company.

Analysis

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

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Under section 37 of the Act, the tenant is required to return the rental unit to the landlord reasonably clean and undamaged, except for reasonable wear and tear. Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

I find based on the photographs that the landlord has not met the burden of proof that the carpets were damaged beyond normal wear and tear. In the case, carpets were approximately seven years old at the time of replacement. The photographs show a worn area from walking upon it, which is expected and is normal wear and tear. The carpet in the photograph does not support the claim that the carpet was stained by neglect, such as spilled coffee or any other products. I find the landlord has not proven a violation of the Act by the tenant. Therefore, I dismiss the landlord's application.

As the landlord is not authorized to retain any portion of the tenant's security deposit, I order the landlord to return the tenant's security deposit forthwith. Should the landlord

fail to comply with my order, I granted the tenant a monetary order in the amount of \$500.00, should enforcement of my order be necessary.

I grant the tenant a monetary order in the amount of \$500.00, pursuant to section 67 of the Act. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord's application is dismissed. The tenant is granted a monetary order for the return of their security deposit.

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 20, 2017

Residential Tenancy Branch