



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD, FF

Introduction

This is a review hearing granted for the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for damage to the rental unit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the tenant served the landlord with the notice of review hearing and a copy of the review decision on July 19, 2017 via Canada Post Registered Mail. Both parties confirmed receipt of the landlord's 4 submitted documentary evidence packages and the tenant's 1 submitted documentary evidence package as being properly served. No issues regarding service were made. I accept the undisputed affirmed testimony of both parties and find that both parties have been sufficiently served as per section 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for damage, for money owed or compensation for damage or loss and recovery of the filing fee?
Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties confirmed that this tenancy began on February 1, 2012 on a 1 year fixed term ending on January 31, 2013 and then thereafter on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated January 10, 2012. The monthly rent was \$1,250.00 payable on the 1st day of each month. A security deposit of \$625.00 was paid.

The landlord confirmed that neither a condition inspection report for the move-in or the move-out was completed by both parties.

The landlord seeks a monetary claim of \$1,302.00 which consists of:

\$350.00	Repair and repaint 2 living room walls
\$375.00	Clean and Degrease Kitchen
\$95.00	Replace all kitchen knobs (47)
\$150.00	Clean and sanitize 2 bedroom carpets
\$175.00	Repair Front Door jam
\$95.00	Re-Install Master Bedroom Closet railing and repair holes

The landlord claims that the tenant vacated the rental unit leaving it dirty and damaged. The landlord clarified that based upon the above noted invoice the cleaning and repairs required to make the premises rentable again.

The landlord has submitted in support of this claim:

Copy of Incomplete Condition Inspection Report for Move-In dated January 31, 2012

Copy of Invoice dated August 1, for Repairs by Contractor R.D. Restorations

Copy of Signed tenancy agreement dated January 10, 2012

Copy of Notice to End Tenancy by Tenant dated June 20, 2016

Copies of 65 photographs depicting the rental premises before and after the start of tenancy

The tenant provided affirmed testimony that his signature was not on the original signed tenancy agreement, but that he was a tenant as listed on the signed agreement. The tenant agreed that his room-mate had previously re-painted the walls of the living room and has disputed that the walls required repairs. The tenant provided undisputed affirmed testimony that he had paid for a cleaning service of the rental premises as shown by the submitted copy of the invoice dated July 25, 2017. The tenant claimed that this was a “deep cleaning”. The tenant confirmed that his room-mate had painted the knobs of the kitchen cabinets sometime during the tenancy. The tenant disputed the landlords claim that the front door jamb was damaged during the tenancy as the cracks on this front door frame were from the beginning of the tenancy. The tenant confirmed in his direct testimony that he did change the railings of the closet without notifying the landlord and that they were left this way at the end of tenancy.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

I accept the affirmed evidence of both parties and find that the landlord has established a claim for damage and compensation for that damage caused by the tenant. The tenant confirmed in his direct testimony that his room-mate had painted the walls a different color (green) and that the tenants had failed to re-paint the walls to an acceptable color as agreed upon with the landlord. Although the tenant has disputed that the walls were damaged, the landlord has provided sufficient evidence to satisfy me that damage did occur and that repairs were required. I reference the landlord's photographs of the many scuff marks and the contractor's invoice which details repairs of the walls. Although the tenant disputed the landlord's claim for cleaning by relying upon an invoice for cleaning services dated July 25, 2017, I find that I prefer the evidence of the landlord over that of the tenants in this regard. The landlord has

provided copies of 65 photographs depicting the condition of the rental unit before and after the tenancy began. I find that this is supported by many photographs of the stove, behind the stove, heavy grease stains on the tile, oven racks, dish washer and kitchen cabinet doors. The tenant confirmed in his direct testimony that the knobs on the kitchen cabinets were painted by his room-mate and that they were left in that condition at the end of tenancy. The landlord has also provided photographs of some damaged kitchen cabinet knobs. The tenant has confirmed in his direct testimony that the closet railings were changed by him and left as claimed by the landlord at the end of the tenancy. On this basis, I find that the landlord has provided sufficient evidence to satisfy me that the rental unit was left damaged and dirty by the tenant at the end of tenancy. The landlord is entitled to the monetary claim of \$1,302.00.

The landlord having been successful is entitled to recovery of the \$100.00 filing fee.

I authorize the landlord to retain the \$625.00 security deposit in partial satisfaction of this claim. No interest is payable on this amount.

Conclusion

The landlord is granted a monetary order for \$777.00.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the order may be filed in the Small Claims Division of the Provincial 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 07, 2017

Residential Tenancy Branch