



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with cross applications. The landlords applied for authorization to retain the tenant's security deposit and pet damage deposit. The tenant applied for return of the security deposit and pet damage deposit. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Preliminary Issue – Amendment of Landlord's Application

The landlords had originally filed seeking to retain the tenant's \$1,000.00 security deposit and pet damage deposit. On September 13, 2017 the landlords submitted an Amendment to an Application for Dispute Resolution indicated they would like to add "related claim" but did not indicate they were seeking to change the monetary claim. However, the Amendment was accompanied by a Monetary Order worksheet listing four items totalling \$3,696.26 and receipts in support of the amounts appearing on the Monetary Order worksheet.

At the outset of the hearing, I enquired as to whether the landlords were seeking to increase their claim. The landlord explained that their claim remains at \$1,000.00 and that they used the Amendment as a way to provide evidence in support of their claim. In this case, the landlord's application was not amended. Rather, the receipts were admitted as evidence in support of the landlords' claim for \$1,000.00.

Issue(s) to be Decided

1. Have the landlords established an entitlement to retain the tenant's \$1,000.00 security deposit and pet damage deposit?
2. Should all or part of the security deposit and pet damage deposit be returned to the tenant?

Background and Evidence

The tenancy started on February 1, 2010 and ended on April 30, 2017. The tenant paid a security deposit of \$500.00 and a pet damage deposit of \$500.00.

The parties participated in a move-in inspection and a move-out inspection together and reports were prepared. The tenant provided the landlords with a forwarding address in writing on April 28, 2017. The tenant did not authorize the landlords to make any deductions from the security deposit or pet damage deposit in writing as the parties did not reach an agreement with respect to compensation owed to the landlords. The landlords filed their Application for Dispute Resolution on May 14, 2017 and seek compensation of \$1,000.00 for three things: cleaning, carpet damage and blind damage. Below, I provide the parties respective positions with respect to these three claims.

Carpet damage

It was undisputed that during the tenancy the carpeting was pulled in the hallway of the rental unit due to a pet. It was also undisputed that a pet had urinated on the carpeting in the rental unit. At issue was the compensation the landlords seek for the carpet damage.

It is uncertain as to how much compensation the landlord seeks for carpet damage since the landlords limited their claim to \$1,000.00 for three different things. During the hearing the landlord stated that the landlord suffered a loss of \$1,000.00 or more due to the carpet damage alone. The landlord submitted that new carpeting was installed in the rental unit at a cost of \$3,270.80 as evidenced by a receipt dated May 10, 2017.

The landlord submitted that the carpet pulling in the hallway could not be repaired and that the smell of pet urine cannot be effectively removed with carpet cleaning since the urine would have soaked into the underlay so the carpets and underlay required replacement. The landlords had a written statement from the carpet supplier attesting to the smell of urine in the rental unit.

When asked about the age of the carpeting the landlord originally stated it was 20 years old and then changed her testimony to state it was new when the landlords purchased the property in 2005. The landlord was of the position the carpeting was in very good condition at the start of the tenancy and suggested that one can expect carpeting up to 30 years.

The tenant stated that she offered to have the carpets cleaned at the end of the tenancy but that the male landlord told her not to bother as the landlords would be replacing the carpets anyways. The tenant was of the position that the carpeting needed replacement in any event because of wear and tear and its age. The tenant submitted that the carpets were in good condition at the start of the tenancy, but not new, and her tenancy was over seven years in duration.

The landlord responded by stating that the reason the other landlord told the tenant the carpeting would be replaced is because of the smell of urine. The landlord was of the position that had the carpet not been damaged by the pulling and urine it would not have been replaced.

Blind damage

It was undisputed that at the end of the tenancy some of the slats on the metal venetian blinds were bent. The landlord submitted that it was likely due to a cat sitting in the windows. At issue was the amount of compensation sought by the landlords.

The amount of compensation sought by the landlords was unclear since the landlord limited the claim to \$1,000.00 and the landlords' claim comprised of three components. During the hearing, the landlord requested compensation of \$225.00 for blind damage.

The landlords submitted evidence that new metal venetian blinds would have cost \$125.00. The landlord opted to install more expensive faux wood blinds at a cost of \$245.46 but is not claiming that amount against the tenant. In addition, to the value of the replacement metal blinds, the landlord submitted that the person who installed the new blinds was paid \$100.00. Accordingly, the landlords seek to recover \$225.00 from the tenant for damage to the metal blinds.

As far as the age of the damaged blinds, the landlord hesitated before stating that they were new in 2010 just before the tenancy started. As for life expectancy, the landlord stated that blinds should last "forever".

The tenant submitted that the slats bend over years of use and wear and tear but that if the tenant is held responsible for compensating the landlords for blind damage the tenant was of the view that a more reasonable amount would be 20% of the replacement cost of new metal blinds to reflect the age of the blinds she had.

Cleaning

The landlords requested compensation of \$80.00 for additional cleaning. The tenant was agreeable to compensating the landlords this amount.

Analysis

Upon consideration of everything before me, I provide the following findings and reasons.

Under section 37 of the Act, a tenant is required to leave a rental unit reasonably clean and undamaged at the end of the tenancy. Section 37 provides that reasonable wear and tear is not considered damage. Accordingly, a landlord may be entitled to compensation from a tenant for damage but not wear and tear.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in section 7 and 67 of the Act. Accordingly, an applicant must prove the following:

1. That the other party violated the Act, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

Awards for damages are intended to be restorative. Where a building element is so damaged that it requires replacement, it is often appropriate to reduce the replacement cost by the depreciation of the original item. In order to estimate depreciation of the replaced items in this case, I have referred to normal useful life of the item as provided in Residential Tenancy Policy Guideline 40: *Useful Life of Building Elements*.

Carpet damage

It is undisputed that the carpeting was damaged at the end of the tenancy and I accept that the pulling and urination that was caused by the pets permitted in the rental unit by the tenant constitutes damage that likely required replacement of the carpeting. Therefore, I am satisfied that the tenant damaged the rental unit in violation of the Act.

At issue is the value of the landlord's loss as a result of the tenant's violation. Residential Tenancy Policy Guideline 40 provides that carpeting has an average useful life of 10 years. The landlord provided changing testimony pointing to the age of the carpeting as being 12 or 20 years old. While I appreciate that the life expectancy of a building element in the policy guideline is an estimate, where a party asserts that the life span is much greater, such as the 30 years as suggested by the landlord, I find it reasonable to expect the landlord would provide me evidence to demonstrate the carpeting that was in the rental unit was of high quality with a longer than average life expectancy. I was not provided evidence of this by the landlords. Therefore, I proceed on the basis that the carpets that were in the rental unit were of average quality.

Given the age of the carpeting at the end of the tenancy, I find the carpeting likely had very little value left. However, in recognition that the carpets may have remained serviceable had it not been for the damage caused during this tenancy I find it appropriate to provide the landlords a nominal award. I award the landlords a nominal award of \$100.00 for carpet damage.

Blind damage

The move-out inspection report indicates the blinds were “warped”. Since the blinds were metal I find it likely the blinds were bent or warped due to the cat as suggested by the landlord or use that exceeded normal wear and tear. Accordingly, I find the tenant responsible is for blind damage and the issue is the amount of compensation payable to the landlords.

I find the landlord’s request to recover 100% of the cost to replace the blinds that were over 7 years old to be unreasonable. I also reject the landlord’s submission that blinds last “forever”. If the slats do not bend, often the strings or operating mechanism break down over time. Accordingly, I find it appropriate to consider the life expectancy as provided in policy guideline 40.

Policy Guideline 40 provides that blinds have an average useful life of 10 years. Taking into consideration the blinds in the rental unit were at least seven years old at the end of the tenancy, I find the tenant’s proposal to pay the landlords 20% of the cost of replacement blinds to be more reasonable. However, I also find it reasonable to hold the tenant responsible for the installation cost as well since blinds do not install themselves. Therefore, I award the landlords 20% of \$225.00, or \$45.00.

Cleaning

The tenant agreed to compensate the landlords \$80 for additional cleaning and I award the landlords that amount.

Filing fee, security deposit and Monetary Order

I make no award for recovery of the filing fee to either party. The tenant’s application was unnecessary since the landlords had filed to retain the security deposit and pet damage deposit within 15 days of the tenancy ending. The landlords had limited success with their application and I am of the view that had they made more reasonable proposals to the tenant the landlords’ application may have been avoided.

In light of all of the above, I authorize the landlords to deduct the sum of \$225.00 [\$100.00 + \$45.00 + \$80.00] from the tenant’s security deposit and pet damage deposit and I order the landlords to return the balance of the deposits to the tenant without further delay.

The tenant is provided a Monetary Order for the balance owed to her by the landlords in the amount of \$775.00 to serve and enforce if necessary.

Conclusion

The landlords are authorized to deduct \$225.00 from the tenant’s security deposit and pet damage deposit. The landlords are ordered to return \$775.00 to the tenant without further

delay. The tenant is provided a Monetary Order in the amount of \$775.00 to ensure payment is made.

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: November 03, 2017

Residential Tenancy Branch