



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for damage to the rental unit pursuant to section 67.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the landlords served the tenants with the notice of hearing package via Canada Post Registered Mail on June 13, 2017 and by Canada Post Parcel service on August 17, 2017 with the submitted documentary evidence. The tenants submitted no documentary evidence. Neither party raised any issues with service. I accept the undisputed evidence of both parties and find that both parties have been properly served as per sections 88 and 89 of the Act.

Preliminary Issue

Both parties confirmed that the tenants had forfeited the \$650.00 security deposit to the landlords for damage(s) at the end of tenancy for cleaning/damage(s).

Issue(s) to be Decided

Are the landlords entitled to a monetary order for damage?

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.

This tenancy began on July 15, 2010 on a fixed term tenancy ending on June 30, 2011 and then thereafter on a month-to-month basis as shown by the submitted copy of the

signed tenancy agreement dated June 22, 2010. The monthly rent was \$1,300.00 payable on the 15th day of each month. A security deposit of \$650.00 was paid on July 15, 2010.

I note that the landlords' monetary application was for \$21,619.41, but based upon the calculations on the amounts provided by the landlord (on the submitted monetary worksheet) the total claim equals, \$22,297.92. The landlords' monetary claim is corrected as such to \$21,647.92. I note that the difference is \$28.51 which is the exact amount for invoice #16, a sink strainer & bulbs which is listed as part of the miscellaneous materials claim.

The landlords seek a monetary claim of \$22,297.92 which consists of:

\$1,096.20	Initial Cleaning
\$229.95	Clean Draperies
\$1,432.20	Removed Damaged Flooring
\$1,452.18	Install New Carpet
\$5,667.48	Install New Hardwood
\$461.48	Replace Damaged light fixtures
\$154.71	Replace Damaged Bathroom Hardware
\$1,244.25	Replace Damaged Window Blinds
\$772.80	Replace Damaged Microwave/Hood Fan Combo.
\$523.90	Final Cleaning
\$947.92	General Repairman
\$4,725.00	Drywall Repairs/Painting
\$239.85	Miscellaneous Materials
\$1,350.00	Loss of Use/Rental Income, 1 Month
\$2,000.00	Landlord's Time
\$22,297.92	Total
\$650.00	Less \$650.00 Security Deposit forfeited by tenants
\$21,647.92	Total Monetary Claim Sought

The landlords claimed that the tenants vacated the rental premises on June 15, 2015 leaving it damaged requiring repairs and dirty requiring extensive cleaning.

The tenants have argued that the rental was vacated leaving it clean and undamaged after 4 years of occupying it and that the condition of the premises was due to wear and

tear. The tenants also argue that the landlords' photographs are fraudulent, but have not provided sufficient evidence to support this claim. The tenants only refer to photograph #84 of the landlords' evidence stating that a comparison with photograph #1 shows that the front entrance door in both photographs show a different colored door and a different type of tiled floor. A review of both photograph(s) show a door in each photograph, but not enough to accept the tenants' claim that the photographs were of different doors.

The landlords rely upon a letter dated February 15, 2016 from their realtor who has detailed that in March 2010 the premises was "in absolutely pristine condition" and undamaged in any way. The landlords go on to state that the rental unit was almost "new" in condition. The letter also refers to 10 photographs of the property as seen by the realtor at that time. The landlord stated that from March 2015 to July 2015 when the tenants took possession of the rental unit as per the condition reported by the realtor in her letter and photographs.

Both parties agreed that a condition inspection report for the move-in or the move-out were not completed by both parties, which would have conclusively showed the condition of the rental unit at the start and end of the tenancy.

The landlords have submitted in support of their claims:

- A copy of an invoice dated June 24, 2015, re: cleaning
- A copy of a receipt dated July 6, 2015, re: drapery cleaning
- A copy of an invoice dated July 10, 2015, re: carpet/hardwood install
- A copy of an invoice dated July 14, 2015, re: kitchen lighting replacement
- A copy of a receipt dated July 14, 2015, re: bathroom hardware
- A copy of quotation dated July 17, 2015, re: blinds
- A copy of invoice dated July 22, 2015, re: replacement of microwave/hood
- A copy of an invoice dated July 31, 2015, re: Final Clean
- A copy of an invoice dated August 9, 2015, re: labour for repairs
- A copy of an invoice dated September 1, 2015, re: Painting
- A copy of a receipt dated August 7, 2015, re: wax toilet seals
- A copy of a receipt dated July 23, 2015, re: shower rods (X2)
- A copy of a receipt dated June 22, 2015, re:
- A copy of a receipt dated June 21, 2015, re: wax ring, led, tape, hardware
- A copy of receipt dated June 15, 2015, re: stopper/strainer
- A copy of a letter dated January 15, 2016, re: cleaning contractor's comments on condition of rental premises

A copy of a letter dated December 9, 2015, re: condition of flooring
A copy of a letter dated November 30, 2015, re: condition of walls, doors and ceilings, lighting.
A copy of 102 color photographs showing the condition of the rental premises 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.

The landlords have relied upon a letter dated February 15, 2016 which details the condition of the rental unit in March 2010, some 5 months prior to the tenants taking possession of the rental unit in July 2010. The letter detailed that the rental premises was "in pristine condition" and undamaged in any way. I note that the tenants provided no comment on the condition of the rental unit as stated by the landlords. The landlords have also provided invoices and receipts documenting each portion of their monetary claims regarding damage. Comparing the 102 photographs detailing damage throughout the rental premises and the letters from the landlords' contractors in confirmation of damage(s) in contrast with the realtor's letter, I find on a balance of probabilities that I prefer the evidence of the landlord over that of the tenants. The tenants have relied solely on their direct testimony disputing that no damage was caused or the premises left dirty. The landlords have established a claim for a monetary order for damage(s) of \$21, 647.92, which is less the \$650.00 security deposit forfeited by the tenants.

Conclusion

The landlords are granted a monetary order for \$21,647.92.

This order must be served upon the tenants. Should the tenants fail to comply with this order, this 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: November 21, 2017

Residential Tenancy Branch