



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FOREMARKE MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNDC MNSD FF

Introduction:

Both parties had made Application and both attended the hearing and gave sworn testimony. Each confirmed receipt of each other's Application for Dispute Resolution and of receipt of the tenant's forwarding address in writing on September 25, 2017. I find the documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this hearing. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Section 67 for damages to the property;
- b) An Order to retain the security deposit pursuant to Section 38; and
- c) An order to recover the filing fee pursuant to Section 72.

The tenant applies pursuant to the Act for orders as follows:

- d) For a return of twice the security deposit pursuant to section 38; and
- f) To recover the filing fee for this application.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that the tenant damaged the property, that it was beyond reasonable wear and tear and the amount it cost to fix the damage? If so, what is the amount of the compensation and is the landlord entitled to recover filing fees also?

Is the tenant entitled to twice her security deposit refunded and to recover filing fees for the application?

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced in December 1, 2013, that rent was \$3600 increased to \$3650 a month and a security deposit of \$1800 was paid on November 15, 2013. Both parties agreed that the home was new at move-in and no Condition Inspection Report was completed and signed by the tenant at move-in or move-out.

The landlord claims as follows:

1. \$90 + 1.5 hr. labour. The tenant agreed they were broken but said she would have replaced them if the landlord had pointed this out at move-out.

2. \$180 + 2.5 hrs labour to replace lights over the island. The tenant said they were mismatched lights at move-in and the landlord found some matching ones. She said she should not be responsible for she did no damage to them.
3. \$420 for 6 hours labour to repair doors, towel bar, shower head attachment and scratches on the ensuite tub. The tenant agreed with some of the repairs but not the ensuite tub. She said she would have fixed the items if pointed out to her.
4. \$450 for cleaning fee. The tenant said she had the place professionally cleaned but she did not provide a receipt in evidence.

In evidence are photos of the alleged damage, the landlord's invoice for cleaning and retail store receipts for the cost of the items. There is no professional invoice for labour.

The tenant claims her security deposit refunded. She said she did not find out about these charges until she requested it back on September 25, 2017.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis:

Awards for compensation are provided in sections 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.

I find the weight of the evidence is that the tenant caused some damage to the home as she agreed. I find the home was new at move-in so items were 4 years old at move-out. The Residential Policy Guideline #40 assigns a useful life to items in rented premises to account for reasonable wear and tear. Items such as registers are assigned a useful life of 15 years. I find these registers had 73% of their useful life remaining so I find the landlord entitled to recover \$66 of the cost of their replacement.

I find insufficient evidence that the tenant was responsible for damage to the lights so I find the landlord not entitled to recover cost of the lights or labour.

I find the other items claimed were labour costs to repair what was in place. I find the landlord entitled to 5 hours of labour for the claimed repairs. They did not provide a professional invoice for labour and the hand written document was hard to decipher. Also, I allow no labour for the disallowed light claim. 5 hours of labour at \$60 an hour is \$300 allowed. Although the tenant

claimed she could have fixed everything if the landlord had pointed it out, I find the Act provides it is the tenant's responsibility to return the property undamaged and clean.

I also find the landlord entitled to recover cleaning costs. Residential Policy Guideline 1 and section 37 of the Act provide a tenant must leave the unit clean when vacating. Although the tenant said she had it professionally cleaned, I find insufficient evidence to support her statement. I also find it unlikely that the landlord would pay \$450.00 to a cleaning company if the house had been cleaned. I find the landlord entitled to recover his cleaning cost as invoiced of \$450.00.

In respect to the tenant's claim for the refund of her security deposit, I find she vacated on September 15, 2017 and provided her forwarding address in writing on September 25, 2017. I find the landlord filed their application to claim against the deposit on October 6, 2017 which is within the 15 days allowed under section 38 of the Act to avoid the doubling provision. I find the tenant entitled to recover the balance of her original deposit after deducting the landlord's compensation.

Conclusion:

I find the parties entitled to the monetary awards as calculated below and to recover their filing fees for their applications as both had merit.

Calculation of Monetary Award:

Tenant's security deposit	1800.00
Filing fee to tenant	100.00
Less register allowance	-66.00
Less labour	-300.00
Less cleaning costs	-450.00
Less filing fee to landlord	-100.00
Balance is Monetary Order to Tenant	984.00

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: December 20, 2017

Residential Tenancy Branch