



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 hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damages to the unit - Section 67;
2. A Monetary Order for compensation - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlords and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Tenant confirms that the other named Tenant received the application for dispute resolution and notice of hearing from the Landlord.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The following are agreed facts: The tenancy started on April 1, 2013 and ended on June 30, 2017. Rent of either \$1,234.00 or \$1,244.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$600.00 as a security deposit. The Parties mutually conducted a move-in and move-out inspection with completed condition reports copied to the Tenants. The Tenants provided their forwarding address to the Landlord on the move-out report. The Tenant owes the Landlord \$189.00 for the cost of cleaning the carpets.

The Landlord states that the Tenants left a bathroom sink cabinet stained and burned apparently by allowing a chemical to leak under the sink. The Landlord claims the incurred repair costs of \$139.59 and provides a receipt dated July 12, 2017. The Landlord states that the unit is about 10 years old. The Landlord states that he bases his belief on having observed the building being constructed. The Tenant states that the sink was cracked and leaking in 2015 and that the Landlord replaced the sink then. The Tenant states that the stain came from the leak. The Landlord does not have any evidence or inspection report from the 2015 damage but does not believe that a water leak would have caused the discoloration, burns and wood damage under the sink. The Tenant states that the Landlord's photo shows only a stain.

The Landlord withdraws the claim in relation to the costs for cleaning the exterior deck. The Landlord states that the Tenants failed to clean the unit and claims the incurred costs of \$176.00. The Landlord provides this receipt dated July 18, 2017. The Landlord provides photos of the unit that is approximately 1300 square feet with 2 bedrooms and 2 bathrooms. The Tenant states that the unit was left more than reasonably clean and that the unit was left cleaner than was provided to the Tenants. The Tenant states that some stains in the cupboards could not be removed and, given the length of the tenancy, are only from reasonable wear and tear. The Tenant states that at move-out the Landlord suggested to the Tenant that if he had a rag and wiped some areas it would take only a half hour at most. The Tenant states that it has a cleaner clean their current much larger home in 3 hours and only costs \$75.00. The Tenant argues that the Landlord is making an "unbelievably excessive" claim for cleaning.

The Parties agree that the Tenants used an industrial strength cleaner on the bathtub and bathroom fixtures. The Landlord describes the cleaner as a corrosive chemical. The Landlord states that the result was corrosion to the finish of the metal drain stopper, faucets and shower head. The Landlord states that the stopper required replacement although there was no problem with water draining. The Landlord states that at move-out the pea trap and piping under the bathroom sink was also noted to be loosened due to something being poured down the drain. The Landlord states that due to the external corrosion and damage there was concern that the piping was also damaged. The Landlord states that the Strata required the Landlord to inspect the drainage from the unit all the way down the lower floors. The Landlord states that no damage was found. The Landlord states that the pea trap and piping would have surely been inspected when the sink was replaced in 2015. The Landlord claims \$425.25 for

the repairs and the pipe inspection. The Landlord provides this receipt dated September 11, 2017.

The Tenant notes that the receipt provided by the Landlord does not itemize the materials or the labour for the job and therefore the Tenant is prejudiced in its ability to respond to the claim. The Tenant argues that the external tarnishing of the bathroom fixtures does not indicate a problem with pipes and that the Tenant should not therefore be responsible for the inspection costs. The Landlord argues that the photos show that the finish of the tub was cracked and the plumber informed the Landlord that the drain was fragile requiring an inspection to determine if the cast iron pipes were compromised.

The Landlord states that the Tenants left the bathtub drain and stopper damaged by the use of the cleaner. The Landlord states that the finish of the tub around the drain shows scaling that might be from the caulking. The Landlord states that there was no cracking. The Landlord claims the incurred costs of \$577.50 to refinish the tub. The Landlord provides this receipt dated August 18, 2017. The Landlord states that the tub is around 10 years old. The Landlord states that the damage was aesthetic only and that the tub was otherwise useable but that the new tenants wanted it repaired or they would not rent the unit. The Landlord states that the new tenants are paying rent of \$1,675.00. The Tenant states that only stains were left to the bathtub and stopper and that the Landlord's change of evidence from cracks to scaling shows the Landlord's overall exaggeration of the damages being claimed. The Tenant argues that the Landlord knows that their claim will be reduced and therefore the Landlord purposely inflates the costs being claimed.

Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. This section further provides that where a landlord or tenant claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement the claiming party must do whatever is reasonable to minimize the damage or loss.

I consider that the photos of the unit show only minor cleaning misses and, with the exception of the bathroom cabinet, some stains in cupboards can be expected from normal use over time. I also consider that the Tenant's credible evidence of home cleaning costs being significantly lower given the size of the unit. It appears from the costs being claimed that the Landlord was seeking a cleaning beyond a reasonable standard. For these reasons I find that the Landlord has not substantiated that the Tenant caused the cleaning costs claimed and I dismiss this claim.

Residential Tenancy Guideline Policy Guideline #40 "Useful Life of Building Elements" (the "Guideline") provides that the useful life of a bathroom cabinet is 25 years. Given the photo of the bathroom cabinet and considering the Tenant's evidence of using a strong cleaning product in the bathroom I find on a balance of probabilities that the Tenants did damage the cabinet. As the cabinet was not new but still had 15 years useful life left I find that the Landlord is entitled to sum that reflects the reduced value of the cabinets at the time of damage in the amount of **\$83.70** ($139.59/25 \times 15$)

The Landlord has not provided anything to support the need for the inspection of the pipes to each of the floors below. I consider that the photos only show stains damage to the finish of the fixtures and there is no supporting evidence that the cleaner caused any of the fixtures to be so badly damaged that they were unusable indicating more serious damage to the pipes. I find therefor on a balance of probabilities that the Landlord has not substantiated that the Tenant's use of a strong cleaner caused the requirement for an inspection of the pipes. As a result I find on a balance of probabilities that the Landlord has not substantiated the Tenant's liability for the piping inspection costs and I dismiss that portion of the claim. Even if the stopper required replacement due to damage by the Tenant, and I note that there is no evidence that the stopper was not useable as a stopper, as the invoice does not itemize the costs for this damage I cannot determine the costs that belong to this claim. As a result I find that the Landlord has only substantiated a nominal sum for the Tenant having caused the damage to the bathtub and shower fixtures in the amount of **\$100.00**.

Guideline #40 provides that the useful life of a tub is 20 years. Given the Landlord's contradictory evidence that the tub surface was cracked and then not cracked I find that the

Landlord's evidence on the extent of the damage to the tub is not credible. Given the photos I accept that the Tenant's evidence that the tub surface was only stained leaving only aesthetic damage. Given the evidence of the new tenants' preferences and their rent payable I find it more likely the refinishing of the tub was done to obtain the significantly higher rent for the unit. I find therefore that the Landlord has not substantiated that the Tenant caused the costs being claimed. Accepting however that the Tenant did leave esthetic damage I find that the Landlord is entitled to a nominal sum of **\$100.00** for this damage.

Based on the agreed facts I find that the landlord has substantiated its claim for carpet cleaning costs of **\$189.00**. As the Landlord's application has met with some success I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$572.70**. Deducting this amount from the security deposit plus zero interest of **\$600.00** leaves **\$27.30** and I order this amount to be returned to the Tenants forthwith.

Conclusion

I Order the Landlord to retain \$572.70 from the security deposit plus interest of \$600.00 in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for **\$27.30**. If necessary, this order may be filed in the Small Claims 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: January 19, 2018

Residential Tenancy Branch