



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 dealt with the landlords' 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 loss under the *Act*, regulation or tenancy agreement pursuant to section 67; authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and authorization to recover the filing fee for this application pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1:51 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. Landlord TH ("the landlord") attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions with respect to their monetary application.

The landlord testified that the tenant was served with her Application for Dispute Resolution package ("ADR") including Notice of Hearing on July 14, 2017 by registered mail. The landlord provided a Canada Post receipt, tracking information and tracking number for this package. She testified that the tenant did not leave a forwarding address or phone number at the end of the tenancy but the landlord testified that the tenant sent via mail a request for his security deposit to be returned on July 10, 2017. This mailing provided his new address. According to section 89 and 90 of the Act, I find that the tenant was deemed served with the landlord's ADR on July 19, 2017 (5 days after its registered mailing).

Issue(s) to be Decided

Are the landlords entitled to a monetary order for damage to the rental unit?

Are the landlords entitled to retain the tenant's security deposit?

Are the landlords entitled to recover the filing fee for this application?

Background and Evidence

This tenancy began on July 1, 2013 as a month to month tenancy. A copy of the residential tenancy agreement was submitted as evidence by the landlords showing a monthly rental amount of \$735.00 to be paid on the last day of each month. The landlord testified that she

continues to hold a \$350.00 security deposit paid by the tenant at the outset of the tenancy. She testified that, after the issuance of a 1 Month Notice to end tenancy for Cause issued by the landlords, the tenant vacated the rental unit on December 27, 2016. The landlord submitted a copy of the tenant's letter dated July 10, 2017 requesting the return of the security deposit and providing a forwarding address. The landlord applied to retain the tenant's security deposit towards a total aware of \$3,100.00 as a result of damage to the unit.

The landlord testified that a condition inspection was conducted at the start and end of this tenancy. She submitted a copy of the condition inspection reports. She testified that the tenant signed the condition inspection report at move-in but not at move-out. The landlord testified that the landlords discovered that the tenants had vacated the rental unit on or about December 27, 2016 when they attended the unit, found it empty with the key left behind.

The landlord testified that she was unable to re-rent the unit until April 1, 2017. She testified that the rental unit was very, very dirty at the end of tenancy: extensive cleaning and repairs were required. She testified that;

- 3 blinds were completely destroyed (1 in the bedroom, 1 in the living room and 1 in the kitchen);
- the walls required painting because they had holes and blue spots on them;
- the bedroom required a new floor as there was extensive water damage;
- the main area flooring tiles were cracked in a variety of locations;
- the bath and kitchen tile grout was grey;
- the kitchen countertops had a hole burnt in them;
- the bathroom counter was water damaged and had rot; and
- the bathroom sinks required replacement as they had chemicals or glue in them as well as in the pipes to the sinks.

The landlord testified that contractors were hired to do most of the repairs however her husband assisted the contractors with labour to reduce the costs of the repairs. She testified that her and her husband conducted all the cleaning. She testified that she did not keep track of her time but estimated that the bath and shower alone took approximately 2 hours to clean. The landlord submitted photographs showing damage to the floors and walls of the rental unit as well as other photographs that reflect the general dirty and damaged condition of the rental unit at move-out.

The landlord submitted a receipt dated February 2017 for the purchase of shower repair materials in the amount of \$43.46; a flooring receipt totalling \$1,556.46 for new laminate in the kitchen, living room and hallways as well as countertop; a receipt for painting totalling \$966.00 for painting walls, mouldings and a cabinet door; hardware store receipts totalling \$586.36 and broken down as follows;

Hardware Store Receipt, Repair type	Amount
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Hanger with nail – \$3.15	Not allowed
Plumbing parts	\$17.97
Plumbing parts	28.73
Cleaning materials	38.25
Sink strainer	Receipt cut off
Plumbing parts	62.27
Faucet and Light bulbs	149.57
Outdoor light	Receipt cut off
Ant traps	28.53
Faucet	128.35
Sealant	Receipt cut off
Door & toilet seat	132.69
Total Receipts, Hardware Store	\$586.36

With respect to the receipt amounts provided above, the landlords withdrew their request for compensation with respect to the “hanger with nail” purchase and the items where a total was not legible because the receipt was cut off.

The landlord submitted a receipt dated February 2017 for the purchase of shower repair materials in the amount of \$43.46; a flooring receipt totalling \$1,556.46 for new laminate in the kitchen, living room and hallways as well as countertop; a receipt for painting totalling \$966.00 for painting walls, mouldings and a cabinet door; hardware store for blinds totalling \$142.43 and hardware store receipts totalling \$586.36.

The landlords submitted a copy of the condition inspection report indicating that, at the start of the tenancy, most areas were in excellent or good conditions and that “no repairs required at the start of the tenancy”. At the end of tenancy, the condition inspection report indicated that most items in the report were either dirty, damaged or both.

The tenant did not attend this hearing despite my finding that she was served with notice of the hearing by the landlords in accordance with the Act.

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 (in this case, the landlord) bears the burden of proof.

The landlord must prove the existence of the damage/loss. In this case, I accept the evidence of the condition inspection report to show that the tenant left the rental unit in poor condition: dirty and damaged. I find that the landlord has proven damage as a result of this tenancy by virtue of the provision of the condition inspection report that accurately reflects the testimony at this hearing.

The landlord must prove that the damage/loss stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Again, the condition inspection report is clear and, according to Residential Tenancy Regulation No. 21 as laid out below, the condition inspection report is the best evidence of the condition of the unit unless proven.

Evidentiary weight of a condition inspection report

- 21** In dispute resolution proceedings, a condition inspection report completed in accordance with this Part is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.

The landlord must also provide evidence that can verify the actual monetary amount of the loss/damage. I find that the landlord has provided evidence with respect to monetary amount of each item she seeks – with the residential tenancy agreement to show the amount of unpaid rent and the condition inspection report to document any damage at the end of the tenancy.

I find that the landlord proved, with invoice and condition inspection report as well as undisputed testimony that the walls required some patch work at the end of the tenancy that were beyond regular wear and tear over the course of the tenancy. The landlord presented minimal evidence regarding the age of the rental unit and when the walls were last painted. Given that Residential Tenancy Policy Guideline No. 40 provides that a tenanted unit should be painted approximately every 4 years, and given that this tenancy continued for approximately 3.5 years, I find that the landlord is entitled to recover \$118.75 – an eighth portion of the \$950.00 costs for repairs and painting the walls.

Similarly, with respect to the new floors added to the rental unit, I note that the landlord was unable to provide evidence to indicate the age of the floors within the residence. Given that this was a 3.5 year tenancy as well as the Policy Guideline No. 40 useful life of floors at 10 years for tile floor and more years for laminate floor, I find that the landlords are entitled to 65% of the \$1,556.46 cost of floor repairs to the laminate and tile floors for a monetary amount of \$1,011.69.

I find that the landlord proved, with invoice and condition inspection report as well as undisputed testimony that the unit, particularly the floors and countertops required extensive cleaning at the end of the tenancy. I accept the landlord's testimony that the unit was very dirty and that the landlords conducted an extensive clean of the unit themselves to ensure the costs were kept

low for the tenant. I note that the landlord estimate approximately 2 hours for the cleaning of the rental unit bathroom fixtures and at least 1-2 hours for every other room or area (hallway, for example) in the rental unit. Therefore, I find that the landlord is entitled to recover \$160.00 for cleaning of the main areas specifically living room, kitchen, bathroom and bedroom in the rental unit at 2 hours per room at \$20.00 per hour.

I find that the landlord proved, with invoices, receipts and the condition inspection report, that the blinds required replacement at the end of the tenancy. The landlord also provided photographic evidence to show that three blinds required replacing: they had irreparable damage, based on the photographic evidence. I accept the invoice submitted by the landlord reflecting an amount of \$142.43 to replace the blinds. I find that the landlord is entitled to recover \$142.43 for the replacement blinds.

I find that the landlord has proven that the hardware store receipts represent necessary expenses at the end of this tenancy in order to clean and repair the various items damaged within the rental unit. Based on the testimony, documentary and photographic evidence submitted by the landlords, I find that the landlords are entitled to recover the costs at the hardware store totaling \$586.36.

As stated, I find that the landlord has provided a condition inspection report providing evidence of the rental unit at the start and the end of the tenancy, in stark comparison. I accept the photographic evidence supplied by the landlords as reflective of the condition of the rental unit at the end of tenancy. Further, I accept that the landlords attempted to address cleaning and repairs by themselves as much as possible in order to reduce/mitigate the ultimate bill to the tenant for damage. I find that the landlord is entitled to an award as follows,

Item	Amount
Hardware store receipts	\$586.36.
Blinds	142.43
Cleaning	160.00
Floors repair, replace	1011.69
Painting	118.75
Less Security Deposit	-350.00
Recovery of Filing Fee for this Application	100.00
Total Monetary Order	\$1,769.23

In accordance with section 72, I find that the landlords are entitled to retain the tenant's \$350.00 security deposit towards the monetary amount below. As the landlord was successful in this application, I find that the landlords are also entitled to recover the \$100.00 filing fee for this application.

Conclusion

I issue a monetary order to the landlords in the amount of \$1,769.23. The landlords are provided with this Order in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant 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: January 24, 2018

Residential Tenancy Branch