



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Decision Codes: FF, MNR, MND, MNSD & MNDC

Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. A monetary order in the sum of \$1423 damage to the rental unit.
- b. An order to keep the security deposit.
- c. An order to recover the cost of the filing fee

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. A monetary order in the sum of \$1345.72.
- b. An order to recover the cost of the filing fee.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties acknowledged they had received the documents of the other party.

I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing filed by each party was sufficiently served on the other as each acknowledged service of the others documents

Issues to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to a monetary order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

- d. Whether the tenants are entitled to a monetary order and if so how much?
- e. Whether the tenants are entitled to recover the cost of the filing fee?

Background and Evidence:

The parties entered into a 7 month written tenancy agreement that provided that the tenancy would start on August 1, 2016. It was extended on 2 occasions with the last extension providing the tenancy would end on September 1, 2017. The rent was \$2200 per month payable in advance on the first day of each month. The tenants paid a security deposit of \$1100 at the start of the tenancy.

The tenants vacated the rental unit on September 1, 2017.

Landlord's Application - Analysis

The Residential Tenancy Act provides the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant and is liable to compensate the landlord for failure to do so. In some instances the landlord's standards may be higher than what is required by the Act. The tenant is required to maintain the standards set out in the Act. The tenant is not required to make repairs for reasonable wear and tear. The applicant has the burden of proof to establish the claim on the evidence presented at the hearing.

With respect to each of the landlord's claims I find as follows:

- a. I dismissed the landlord's claim in the sum of \$193 for the cost to replace aluminum blinds. The landlord has not paid the cost to replace the blinds. The new tenant is using curtains. The tenants accepted responsibility for the damage and they testified the landlord agreed to allow them to replace the blinds. The tenant referred to a document in the landlord's handwriting that had the measurements on it. The tenants provided the landlord with a set of vinyl blinds that cost them \$105.87. They purchased the vinyl blinds at the advice of the store keeper who said the vinyl blinds did not absorb the heat as much as the aluminum blinds. The landlord disputes this although she accepted the blinds and has them in her possession..

I determined the landlord accepted the vinyl blinds in satisfaction of the damage to the blinds. Further, Policy Guideline #40 provides that the expected life of

drapes/venetian blinds is 10 years. The blinds in question were 10 years old and past their expected life.

- b. The landlord claimed the sum of sum of \$630 to replace damage to the hardwood floor. The landlord has not completed this work. The landlord relies on the in-coming Condition Inspection report which does not indicate any damage to the floor. The landlord alleged the marks are burn marks caused by a portable heater or the storage of the tenants' bicycles in the room. The tenant denies this claim testifying the heater was never used. He further testified that he personally cleaned an bike tire marks. Policy Guideline #40 provides that the expected life of a hardwood floor is 20 years. This floor was 10 years old. Section 21 of the Residential Tenancy Act Regulations provides as follows:

“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 tenants failed to provide sufficient evidence to dispute the evidence of the state of repair and condition of the incoming Inspection Report. I determined the landlord is entitled to \$315 of this claim which is the depreciated value of the damage to the hardwood floor.

- c. I dismissed the landlord's claim of \$370 to replace a bathroom sink with vanity combo. The landlord has not completed the work. I determined the chip amounts to reasonable wear and tear and is not recoverable by the landlord.
- d. The landlord claimed \$200 for the cost to replace dead perennial, labour and clean-up. The landlord relies on the provision of the tenancy agreement that provides as follows: “It is the tenant's responsibility to take care of the property both inside and out, which includes the removal of all waste, and raking of leaves.” Policy Guideline #1 includes the following:

“3. Generally the tenant who lives in a single-family dwelling is responsible for routine yard maintenance, which includes cutting grass, and clearing snow. The tenant is responsible for a reasonable amount of weeding the

flower beds if the tenancy agreement requires a tenant to maintain the flower beds.”

I do not accept the submission of the landlord that the tenancy agreement imposed the obligation on the Tenants to maintain the plants. I determined the landlord failed to prove that it was the tenants’ responsibility to maintain and water the plants especially given the heat of the summer last year and this claim is dismissed.

- e. I dismissed the landlord’s claim of \$30 for damage to the window ledge as the landlord failed to prove this is more than reasonable wear and tear. The landlord has not completed the work.

Monetary Order and Cost of Filing fee

In summary I determined the landlord has established a monetary claim against the tenant(s) in the sum of \$315 plus the \$100 filing fee for a total of \$415.

Security Deposit

I determined the security deposit totals the sum of \$1100. I determined the landlord is entitled to retain the sum of \$415 from the security deposit. I determined the tenants are entitled to the reimbursement of the balance of the security deposit in the sum of \$685.

Tenants’ Application:

With respect to each of the Tenants’ claims I find as follows:

- a. For the reasons set out above I determined the tenants are entitled to reimbursement of the balance of the security deposit in the sum of \$685.
- b. I dismissed the tenants’ claim of \$105.87 for reimbursement of the cost to purchase blinds as the parties had agreed the tenant providing these blinds in satisfaction of the landlord’s claim for damage to aluminum blinds.
- c. I dismissed the Tenants claim of \$39.85 for interest charges related to keeping the damage deposit as the landlord was legally entitled to keep the security deposit pending a determination of the landlord’s claim.
- d. I determined the tenants are entitled to recover the cost of the filing fee in the sum of \$100.

In summary I determined the Tenants have established a claim against the landlord in the sum of \$785.

Conclusion

In summary I determined the landlord has established a claim against the Tenants in the sum of \$415 and I ordered the landlord shall retain this sum from the security deposit. I further ordered that the landlord pay to the Tenants the sum of \$785.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

This decision is final and binding on the parties.

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: April 11, 2018

Residential Tenancy Branch