



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNDC, MNSD, FF

Introduction

On September 13, 2017, the Landlord filed an Application for dispute resolution under the *Residential Tenancy Act* ("the Act") requesting to recover unpaid rent and /or utilities; for compensation for damage to the unit; for compensation for damage or loss; to keep all or part of the security deposit; and to recover the cost of the filing fee.

The matter was scheduled as a teleconference hearing. Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. All participants in the hearing provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Are the Landlords entitled to the monetary relief sought for unpaid rent?
- Are the Landlords entitled to monetary relief for damage to the unit?
- Are the Landlords entitled to keep the security deposit?

Background and Evidence

The Parties testified that the tenancy began on May 1, 2017, as a four month fixed term tenancy. Rent in the amount of \$1,150.00 was due to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit of \$575.00. The Tenant testified that the tenancy ended on August 31, 2017. The Landlord testified that he was not aware that the Tenant had moved out until September 2, 2017.

The Landlord makes the following claims for compensation:

Microwave	\$123.32
Microwave recycle fee	\$30.00
Filing Cabinet	\$50.00
Propane Cylinder	\$15.00
Cleaning costs	\$150.00
Postage costs	\$11.26
Painting	\$200.00
BC Hydro bill	\$27.94
Bed Frame damage	\$13.00

Microwave

The Landlord testified that he purchased a new microwave and is seeking to recover the replacement cost. The Landlord submitted that the microwave was working when the Tenant moved into the unit; however it was found to be damaged at the end of the tenancy. The Landlord testified that the microwave does not work. The Landlord testified that the microwave was approximately 3-4 years old. The Landlord provided a photograph of the microwave. The Landlord provided a receipt in the amount of \$123.32 for the purchase of a microwave.

In reply, the Tenant testified that the microwave did not work properly at the start of the tenancy. He testified that there was a large rust ring inside the microwave when he moved in. He testified that he did not break the microwave. The Tenant referred to the Landlord's photograph of the microwave that shows the rust ring.

Microwave recycle fee

The Landlord submitted that he disposed of the microwave and had to pay a \$30.00 recycle fee. The Landlord is seeking to recover the \$30.00 fee from the Tenant. The Landlord did not provide a receipt to show he paid \$30.00 to recycle the microwave.

In reply, the Tenant submitted that it is not his appliance; he did not damage it; and he is not responsible for the cost to dispose of it.

Filing Cabinet

The Landlord submitted that the Tenant left a filing cabinet in the rental unit at the end of the tenancy. The Landlord testified that he disposed of the filing cabinet and is seeking to recover the \$50.00 removal and disposal cost. The Landlord provided a photograph of the filing cabinet. The Landlord did not provide a receipt to show he paid \$50.00 for disposal of the cabinet.

In reply, the Tenant testified that the filing cabinet was not his property. He testified that the filing cabinet was on the rental property when he moved in. He testified that he moved the cabinet into the unit and used it during his tenancy, and left it behind when he moved out.

The Landlord submitted that there was no refuse left behind by previous Tenants.

Propane Cylinder

The Landlord testified that he found a propane cylinder in a drawer within the unit at the end of the tenancy. The Landlord is seeking to recover the \$15.00 fee he paid to dispose of the propane cylinder. The Landlord provided a photograph of the cylinder. The Landlord did not provide a receipt for the disposal cost of the cylinder.

In reply, the Tenant testified that the propane cylinder is not his property. He testified that he found the cylinder in pile of refuse that a previous Tenant left on the property and he decided to move it out of the sun and into the rental unit. The Landlord did not provide a receipt to show he paid \$15.00 for the disposal of the cylinder.

The Landlord submitted that there was no refuse left behind by previous Tenants.

Cleaning Costs

The Landlord testified that the rental unit required cleaning after the Tenant moved out. The Landlord testified that he spent five hours cleaning the rental unit. The Landlord testified that he cleaned the dryer, refrigerator, bathroom and shower, bedroom floor, kitchen garbage box and bedding. The Landlord is seeking compensation of \$150.00 for the cleaning. The Landlord provided photographs of the dryer, refrigerator, oven, sheets, bathroom, floor, and wall.

In reply, the Tenant testified that he left the suite cleaner than when he moved in. He submitted that the dryer was clogged when he moved into the unit. He submitted that he did not use the kitchen garbage box. He submitted that he left the fridge cleaner than when he moved in. He submitted that he did not use the bedding provided by the Landlords. He submitted that the shower was left clean.

Postage Costs

The Landlord testified that the Tenant left photographs behind when he moved out. The Tenant requested the Landlord to mail the photographs to the Tenant. The Landlord is seeking \$11.26 for the cost of mailing the photographs to the Tenant. The Landlord provided a postage receipt in the amount of \$11.26.

The Tenant agreed he is responsible to pay the \$11.26 to the Landlord.

Painting

The Landlord is seeking \$200.00 for the estimated cost to paint the Livingroom wall. The Landlord has not painted the wall and has a new Tenant living in the rental unit. The Landlord provided a photograph showing a wall. The Landlord did not provide a quote to establish how he determined the painting cost is \$200.00.

In reply, the Tenant testified that he did not damage the wall and does not agree to pay for the cost to repaint the wall. The Tenant testified that the unit had not been freshly painted when he moved into the unit.

BC Hydro Bill

The Landlord is seeking \$27.94 for the Tenant's portion of an unpaid hydro bill for August 2017. The Landlord testified that the Tenant is responsible to pay a 2/7 share of the bill. The Landlord did not provide a copy of an August 2017, BC Hydro bill.

In reply, the Tenant testified that the Landlord has never presented him with an official bill from BC Hydro. The Tenant testified that he will pay his share of the bill when the Landlord provides the bill.

Bed Frame Damage

The Landlord testified that the rental unit came furnished with a wood bedframe. The Landlord testified that part of the frame is starting to peel away. The Landlord testified that the bedframe is approximately 5 – 6 years old. The Landlord testified that he purchased a cover for the peeling headboard. The Landlord testified that the bedframe was in good condition at the start of the tenancy. The Landlord did not provide a photograph of the bedframe. The Landlord did not provide a receipt to show he paid \$15.00 to repair the bedframe.

In reply, the Tenant submitted that the bedframe was peeling at the time he moved in. The Tenant testified that the bedframe is laminated particle board and the edge of the laminate is starting to lift up. The Tenant testified that he did not do any damage to the bedframe.

Security Deposit

I find the tenancy ended on August 31, 2017, and the Landlord applied for dispute resolution on September 13, 2017. The Landlord applied for dispute resolution seeking to claim against the deposit within 15 days of the end of the tenancy.

The Tenant testified that the Landlord did not perform a move in inspection at the start of the tenancy.

The Landlord testified that he did not complete a move in inspection report and provide the Tenant with a copy at the start of the tenancy.

Analysis

The Residential Tenancy Policy Guideline # 16 Claims in Damages states:

An arbitrator may award monetary compensation only as permitted by the Act or the common law. In situations where there has been damage or loss with respect to property, money or services, the value of the damage or loss is established by the evidence provided.

A party seeking compensation should present compelling evidence of the value of the damage or loss in question.

The Residential Tenancy Policy Guideline #1 Landlord & Tenant – Responsibility for Residential Premises provides:

A tenant is generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest.

A tenant is not required to maintain and repair appliances provided by the Landlord.

The landlord is responsible for painting the interior of the rental unit at reasonable intervals.

Based on all of the above, the evidence and testimony, and on a balance of probabilities, I find as follows:

Security Deposit

The Landlord complied with section 38 of the Act by making an application to keep the security deposit within 15 days from the end of the tenancy; however, the Landlord had already extinguished his right to claim against the security deposit when he failed to complete a condition inspection report and provide the Tenant a copy at the start of the tenancy pursuant to section 24(2) of the Act.

I grant the Tenant the return of the security deposit in the amount of \$575.00.

The Landlord retains the right to make claims for damage or loss against the Tenant, and an Arbitrator can order that any awards granted to the Landlord may be deducted from any award granted to the Tenant.

The security deposit will be used to set off any awards granted to the Landlord.

Microwave

The Landlord failed to complete a condition inspection report at the start of the tenancy which would establish the condition and state of repair of items at the start of the tenancy.

The Landlord's claim for the replacement cost of the microwave is dismissed. The microwave is 3-4 years old and there is insufficient evidence from the Landlords that the Tenant was responsible for damaging the microwave through deliberate misuse or neglect.

Microwave recycle fee

The Landlord's claim for the recycle fee is dismissed. The Tenant is not responsible for damage to the microwave and is not responsible to pay the recycle fee.

Filing Cabinet

I prefer the evidence of the Landlord that the Tenant left the filing cabinet in the unit at the end of the tenancy; however, the Landlord did not provide documentary evidence such as a receipt to prove the value of his loss for disposing of the filing cabinet. The Landlord's claim for \$50.00 is dismissed.

Propane Cylinder

I prefer the evidence of the Landlord that the Tenant left the propane cylinder in the unit at the end of the tenancy. The Landlord did not provide documentary evidence such as a receipt to prove the value of his loss for disposal of the propane canister. The Landlords' claim for \$15.00 is dismissed.

Cleaning Costs

The Landlord failed to complete a condition inspection report at the start of the tenancy which would establish the condition and state of repair of household items at the start of the tenancy.

I find that many of the Landlord's photographs do not support the Landlord's testimony that the rental unit was left unclean. The refrigerator and oven appear to be clean to a reasonable standard. I accept the Landlord's photograph of the shower which appears to show mildew where the glass meets the frame. The remainder of the Landlord's claim for cleaning are dismissed.

I grant the Landlord \$60.00 for two hours to clean the bathroom.

Postage costs

The Tenant agreed to pay the Landlord \$11.26 for postage costs. I grant the Landlord \$11.26.

Painting

The Landlord's photograph of a wall shows a very small area of a wall with a small mark of discoloration. The Landlord failed to complete a condition inspection report at the start of the tenancy which would establish the condition and state of repair of the walls and paint at the start of the tenancy. The Landlord did not establish how he determined the amount of the claim and the Landlord has not completed the repainting.

The Landlord's claim is dismissed as they did not establish that the Tenant was responsible for the damage and that they suffered a loss.

BC Hydro bill

The Landlord did not provide a copy of the BC Hydro bill. The Landlords claim is dismissed. The Tenant has a right to see the official bill before paying the hydro cost.

Bed Frame Damage

The Landlord failed to complete a condition inspection report at the start of the tenancy which would establish the condition and state of repair of the bed frame at the start of the tenancy. The Landlord did not provide a photograph of a damaged bedframe.

I find that the bedframe is 5-6 years old and there is insufficient evidence from the Landlords that the Tenant was responsible for damaging the bedframe through deliberate misuse or neglect.

The Landlords claim for \$15.00 is dismissed.

Filing Fee

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlords were partially successful with their application, I order the Tenant to repay the \$100.00 fee that the Landlords paid to make application for dispute resolution.

Monetary Awards

The Landlord has established a monetary claim in the amount of \$171.26 for postage, cleaning costs, and the recovery of the filing fee.

The Tenant is entitled to the return of the security deposit in the amount of \$575.00

After setting off the award of \$171.26 against the security deposit of \$575.00, I order the Landlords to return the balance of \$403.74 to the Tenant.

I grant the Tenant a monetary order in the amount of \$403.74. The order must be served on the Landlords and may be enforced in the Provincial Court.

Conclusion

The Landlords extinguished their right to make a claim against the security deposit. The Tenant is granted \$575.00 for the return of the security deposit.

The Landlord was awarded compensation in the amount of \$171.26 for cleaning costs, postage costs, and the cost of the filing fee.

After setting off the awards, the Tennant is granted a monetary order in the amount of \$403.74.

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 24, 2018

Residential Tenancy Branch