



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, FF

Introduction

On August 20, 2018, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* ("the Act") for a monetary order for damage to the unit; to keep the security deposit; and to recover the cost of the filing fee.

The matter was scheduled as a teleconference hearing. The Landlord and Tenant attended the hearing. At the start of the hearing I introduced myself and the participants. The Landlord and Tenant provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

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

- Is the Landlord entitled to compensation for damage to the unit?
- Is the Landlord entitled to retain the security deposit?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The parties testified that the tenancy began in May 2013. The Tenant was to pay the Landlord monthly rent in the amount of \$900.00; however, the Landlord and Tenant immediately agreed to reduce the rent to \$800.00 due to cablevision and Wi-Fi issues. The Tenant testified that he paid a security deposit of \$400.00 to the original Landlord.

The Landlord testified that she purchased the rental property in January 2016, and inherited the Tenant and the tenancy agreement. The Landlord testified that she only received \$350.00 for the security deposit from the original Landlord.

The Landlord did not provide any evidence to prove that the Tenant only paid \$350.00 for the security deposit. Neither party provided a copy of a tenancy agreement.

The Landlord testified that when the Tenant moved out of the rental unit on August 11, 2018, there was lots of cleaning required and damage to the rental unit.

The Landlord is requesting compensation for the following items:

Carpets	\$350.00
Wall damage	
Cupboards	

Carpets

The Landlord testified that the Tenant failed to clean the two carpets at the end of the tenancy. The Landlord testified that she hired someone to come clean the carpets at a cost of \$200.00. The Landlord testified that she does not have a receipt. The Landlord provided photographs of the dirty carpets.

In reply, the Tenant testified that he did not have the carpets cleaned because he understood that the Landlord did not require them carpets to be cleaned. The Tenant testified that he hired a cleaning service who vacuumed the carpets at the end of the tenancy. The Tenant referred to his documentary evidence of text message about the carpets exchanged by the parties.

Wall Damage

The Landlord testified that there was some damage to the hallway wall that required repair. She testified that she had the entire suite painted after the Tenant moved out. The Landlord is seeking compensation for the damage to the wall that she feels is more than normal wear and tear. The Landlord provided photographs of the wall.

In reply, the Tenant testified that the scrapes to the wall is normal wear and tear. He testified that the Landlord did not paint the interior of the rental unit during the tenancy. The Tenant testified that the Landlord said she was painting, so the Tenant informed her that he would not clean the walls and the Landlord did not respond to him.

Cupboards

The Landlord testified that some hinges had fallen off some cupboards. She testified that she hired someone to reinstall four hinges at a cost of \$100.00. She testified that it took 30 minutes to reinstall the hinges. The Landlord did not provide a receipt.

In reply, the Tenant testified that the hinges came loose from the chipboard and they needed to be installed with longer screws. He testified that the cupboards were not used in a negligent manner and that there was normal use of the cupboards.

Analysis

The Landlord is seeking compensation for specific items that she alleges were damaged, however the Landlord did not assign a monetary value to each item of her claim. The Landlord is seeking to retain the security deposit of \$350.00 for all of her claims. Section 2.5 of the Residential Tenancy Branch Rules of Procedure states an applicant must submit:

- *a detailed calculation of any monetary claim being made*

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.

An arbitrator may also award compensation in situations where establishing the value of the damage or loss is not as straightforward:

“Nominal damages” are a minimal award. Nominal damages may be awarded where there has been no significant loss or no significant loss has been proven, but it has been proven that there has been an infraction of a legal right.

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 states:

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.

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

Carpet Cleaning

The Residential Tenancy Policy guideline #1 Landlord & Tenant – Responsibility for Residential Premises states:

The tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year.

Where the tenant has deliberately or carelessly stained the carpet he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of tenancy.

I find that the Tenant failed to clean the carpets at the end of the tenancy. I find that the Landlord did not agree that the Tenant did not have to have the carpets cleaned. I find that the Landlord has failed to prove the value of the loss for the cost of carpet cleaning because a receipt for the cost was not provided. In the circumstances, I find that it is reasonable to award the Landlord \$100.00 for the cost to clean two bedroom carpets at the end of the tenancy. I award the Landlord \$100.00 for the cost of carpet cleaning.

Wall Damage

I find that the Landlord did not provide proof of the loss incurred. The Landlord did not provide a receipt. I find that the Landlord's photographs establish that there are some scrapes on the hallway wall. Considering the damage shown; the length of the tenancy, and the fact that the Landlord had the entire rental unit painted at the end of the tenancy, I find that the damage is minimal. The Landlord's claim for compensation for the scrapes is dismissed without leave to reapply.

Cupboard Hinges

I find that the Landlord did not provide proof of the loss incurred. The Landlord did not provide a receipt for the repair cost. I find that there is insufficient evidence from the Landlord to establish that the Tenant caused intentional damage to the cupboards or used them in a negligent manner. I find that it is more likely than not that the screws broke loose after years of use. I find that the Tenant is not responsible for the cost to reinstall the cupboard hinges. The Landlord's claim is dismissed without leave to reapply.

Security Deposit

There is insufficient evidence from the Tenant to prove that he paid the original Landlord \$400.00 for a security deposit. The Tenant knew that the Landlord had applied to retain the security deposit of \$350.00 and the Tenant did not provide a copy of the original tenancy agreement or any other proof of the alleged \$400.00 amount paid to the original owner. I find that the current Landlord is holding a \$350.00 security deposit.

I find that the Landlord applied to keep the security deposit on August 20, 2018, which is within 15 days of the end of the tenancy. The security deposit will be applied to any successful claims awarded to the Landlord.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was partially successful with her application, I order the

Tenant to repay the \$50.00 of the fee that the Landlord paid to make application for dispute resolution.

The Landlord has established a monetary claim in the amount of \$150.00. I authorize the Landlord to retain the amount of \$150.00 from the \$350.00 security deposit.

I order the Landlord to return the balance of \$200.00 to the Tenant. I grant the Tenant a monetary order in the amount of \$200.00.

Conclusion

The Landlord was partially successful with her claims for cleaning and damage to the rental unit.

I find that the Tenant owes the Landlord the amount of \$150.00. I authorize the Landlord to retain the amount of \$150.00 from the \$350.00 security deposit.

I order the Landlord to return the balance of \$200.00 to the Tenant. I grant the Tenant a monetary order in the amount of \$200.00. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Landlord is cautioned that costs of such enforcement are recoverable from the Landlord.

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 18, 2018

Residential Tenancy Branch