



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MND, MNDC, MNSD, FF.*

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for a monetary order for the cost of cleaning, repairs, painting and for the recovery of the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of his claim.

The tenant applied for the return of double the security deposit and for the recovery of the filing fee. Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Both parties represented themselves.

As both parties were in attendance I confirmed service of documents. The parties confirmed receipt of each other's evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

Issues to be decided

Is the landlord entitled to a monetary order for the cost of cleaning, repairs, painting and for the recovery of the filing fee? Is the tenant entitled to the return of double her security deposit and to the recovery of the filing fee?

Background and Evidence

The parties agreed to the following: The tenancy started on December 01, 2014 and ended on October 13, 2018. At the end of tenancy, the monthly rent was \$1,970.00 which was due on the first of each month. Prior to moving in the tenant paid a security deposit of \$900.00. The landlord is currently holding the security deposit.

The tenant testified that a move out inspection was arranged for the last day of the tenancy on October 13, 2018. The parties agreed that the landlord attended the unit accompanied by his family members. The tenant stated that they were in the process of doing last minute cleaning and placing their belongings to the moving truck. The landlord conducted the inspection but did not complete a report.

The tenant stated that she asked the landlord if everything was ok and he agreed. The parties had already discussed the cost of carpet cleaning and the landlord agreed to accept \$125.00. The tenant returned the keys to the landlord and prior to leaving asked the landlord to give her some written confirmation that everything was ok. The tenant stated that since the apartment was empty, she had no access to a pen or paper and therefore asked the landlord to send her a text message confirming that there were no discrepancies. Both parties filed a copy of the conversation by text message in which the landlord states "*You are good to go*".

The landlord stated that the tenant was in a hurry and therefore he said she could leave and that all was ok, but he meant "*ok for now*". A subsequent text message also asked the tenant to return to complete the move out inspection.

The landlord agreed that he was provided with a forwarding address and a request for the return of the security deposit on October 15, 2018. On January 16, 2019, the landlord made an application for damages related to the condition of the rental unit at the end of the tenancy. The landlord has made a claim for the following items. The landlord agreed that he had not filed any receipts into evidence and has provided the cost of these items from the website of a major hardware and building material store.

1.	Two Window Blinds	\$295.68
2.	Door Holder	\$10.06
3.	Single Cylinder Deadbolt	\$53.74
4.	Mechanical Timer	\$16.73
5.	Basement FSI	\$75.00
6.	Paint/Wall Damage Repair	\$1,500.00
7.	General Cleaning	\$150.00
8.	Baseboard Cleaning	\$200.00
9.	Wall Light	\$50.40
10.	Filing Fee	\$100.00
	Total	\$2,451.61

Analysis

Landlord's application:

Based on the testimony and evidence of both parties, I find that the landlord carried out a move out inspection on October 13, 2018 but failed to generate a report. The landlord also confirmed that the condition of the rental unit was acceptable when he sent the tenant a text message saying that she could leave the rental unit.

However, the subsequent text message to the tenant confirms the landlord's testimony that he allowed the tenant to leave because she was in a hurry and that he intended to complete the inspection at a later date. The tenant did not return to complete the move out inspection.

1. Two Window Blinds - \$295.68

The tenant testified that the blinds did not work properly during the tenancy and that she requested the landlord to repair or replace them. The landlord denied having been informed of the condition of the blinds.

Based on the age of the apartment and on a balance of probabilities It is more likely than not that the blinds are the original blinds, were 22 years old and had probably outlived their useful life by the end of tenancy. The tenant testified that the damage was from regular use of the blinds. In addition to possible damage from wear and tear, the landlord did not file any receipts to support his monetary claim and therefore his claim for new blinds is dismissed.

2. Door holder - \$10.06

3. Single Cylinder Deadbolt - \$53.74

The tenant denied having taken the door holder and the landlord did not file any proof of having incurred costs to replace these two items. The landlord's claim is dismissed

4. Mechanical Timer - \$16.73

The tenant agreed to having taken the timer and offered to return it to the landlord. I find that it will be more efficient to have the tenant cover the cost of the timer. I award the landlord his claim of \$16.73.

5. Basement FSI - \$75.00

The landlord stated that the front side of the basement was damaged. The tenant denied having caused any damage. The landlord has not proven that the damage was caused by the negligence of the tenant and therefore his claim is dismissed.

6. Paint/Wall damage - \$1,500.00

The tenant agreed that there was damage caused to walls from hanging pictures. The unit was painted at the start of tenancy.

Section 40 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. I will use this guideline to assess the remainder of the useful life of the painting. As per this policy, the useful life of interior painting is four years. The unit was painted in December 2014 and therefore by the end of the tenancy in October 2018, the painting had outlived most of its useful life. However, the tenant did agree to having caused some damage to the walls and therefore I find appropriate to award the landlord \$200.00 towards the cost of wall repair and painting.

7. General Cleaning - \$150.00

8. Baseboard cleaning - \$200.00

Based on the photographs filed into evidence by the landlord and the tenant's testimony that the cleaning was not complete prior to moving out, I find that the landlord is entitled to the cost of cleaning. The landlord has filed photographs that indicate that the unit was left in an unclean condition and is claiming the cost of cleaning that he did himself. The tenant agreed that she was running out of time and had not fully cleaned the unit. I find that the landlord is entitled to his claim for the cost of general and baseboard cleaning.

The parties had agreed that the tenant would pay \$125.00 for the cost of cleaning the carpets.

9. Wall Light - \$50.40

The tenant agreed to having damaged the wall light and therefore I award the landlord his claim of \$50.40.

10. Filing Fee - \$100.00

Since the landlord has proven a portion of his claim, I award him the recover of the filing fee of \$100.00.

Overall the landlord has established the following claim:

1.	Two Window Blinds	\$0.00
2.	Door Holder	\$0.00
3.	Single Cylinder Deadbolt	\$0.00
4.	Mechanical Timer	\$16.73
5.	Basement FSI	\$0.00
6.	Paint/Wall Damage Repair	\$200.00
7.	General Cleaning	\$150.00
8.	Baseboard Cleaning	\$200.00
9.	Wall Light	\$50.40
10.	Filing Fee	\$100.00
11.	Prior agreed upon Cost of Carpet Cleaning	\$125.00
	Total	\$842.13

Tenant's application:

The tenant applied for the return of double the deposit and for the filing fee. Section 38 of the Residential Tenancy Act requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the amount of the deposit.

In this case the tenancy ended on October 13, 2018, and the landlord agreed that he had received the tenant's forwarding address on October 15, 2018. By October 31, 2018, the tenant had not received her deposit and made this application. The landlord made application to keep the deposit in partial satisfaction of his claim on January 16, 2019.

Therefore, I find that the landlord failed to repay the deposit or make an application for dispute resolution within 15 days of the receipt of the forwarding address and is therefore liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit. The total security deposit paid was \$900.00 which is currently held by the landlord. Accordingly, the landlord must return \$1,800.00 to the tenant.

Since the tenant has proven her case she is also entitled to the recovery of the filing fee of \$100.00 for a total claim of \$1,900.00.

Overall the landlord has established a claim of \$842.13 and the tenant has established a claim of \$1,900.00. I will use the offsetting provisions of section 72 of the *Act* to grant the tenant a monetary order in the amount of \$1,057.87.00 which consists of the difference in the established entitlements of both parties.

I grant the tenant an order under section 67 of the *Residential Tenancy Act* for the balance due of \$1,057.87. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of **\$1,057.87.**

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: February 26, 2019

Residential Tenancy Branch