



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD

Introduction

The Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for a monetary order for money owed or compensation for damage or loss; 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.

Preliminary and Procedural Matters

The Tenant testified that she served her documentary evidence to the Landlord on February 21, 2019. The Landlord testified that she was out of the country and just received the Tenant’s documentary evidence the day before this hearing.

I find that the Tenant served her documentary evidence to the Landlord correctly. The Tenant was responding to the Landlord’s claim and has no control on whether or not the Landlord is home to receive it.

I am satisfied that the parties have properly served each other with the documentary evidence that I have before me.

Issues to be Decided

- Is the Landlord entitled to money or compensation for damage or loss?
- Is the Landlord entitled to keep 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 February 2016, as a one year fixed term tenancy that continued thereafter on a month to month basis. The Tenant was to pay the Landlord monthly rent in the amount of \$1,555.50. The Tenant paid the Landlord a security deposit of \$750.00. The Tenant moved out of the rental unit on April 30, 2018. The Landlord provided a copy of the tenancy agreement.

The Landlord testified that when the Tenant moved out on April 30, 2018, there was cleaning and repairs needed in the rental unit.

The Landlord is requesting compensation for the following items:

Lost Key Charge	\$100.00
Move Out Fee	\$75.00
Cleaning and Carpet Cleaning	\$218.31
Door hook and lightbulbs	\$61.96
Deck Cleaning	\$125.00
Damage	\$144.38
Loss of Rent	\$775.00

Lost Key Charge \$100.00

The Landlord testified that the tenant failed to return a key to the rental unit at the end of the tenancy. The Landlord testified that the tenancy agreement provides that the Tenant will pay the amount of \$100.00 for a lost key.

In reply, the Tenant provided testimony that she agrees with the Landlords claim and she agrees to pay the \$100.00 fee.

Move Out Fee \$75.00

The Landlord testified that the tenancy agreement provides that the Tenant will pay a \$75.00 move out fee as required by the property strata rules.

In reply, the Tenant provided testimony that she agrees to pay the Landlord the \$75.00 fee.

Cleaning and Carpet Cleaning \$218.31

The Landlord testified that the Tenant failed to clean the carpets at the end of the tenancy and that the rental unit required cleaning. The Landlord testified that walls, windows and window tracks were left unclean. The Landlord testified that it took five hours at \$30.00 per hour to clean the unit. The Landlord provided a copy of an invoice in the amount of \$150.00 for the cost of cleaning the unit. The Landlord provided a receipt in the amount of \$68.31 for the cost of renting a carpet cleaning machine and purchase of cleaning solution

In reply, the Tenant provided testimony that she did not clean the carpet in the master bedroom or the den. The Tenant testified that she left the rental unit clean as she spent five hours cleaning the unit with assistance from her mother. She testified that she cleaned the windows.

Door Hook and Lightbulbs \$61.96

The Landlord testified that there was a door hook missing, a fire detector battery needed replacement; and light bulbs were not working and needed replacement. The Landlord provided a photograph of the bathroom door. The Landlord provided receipts dated May 2018, for the purchase of lightbulbs, battery, and a hook.

The Landlord is seeking \$61.96 for the replacement costs.

In reply, the Tenant testified that she is not aware of a missing door hook; however she submitted that her son accidentally pulled off a glued on hook on the bathroom door. She testified that some bulbs were not working and one or two needed to be replaced. She testified that the lights in the kitchen track lighting were not working properly and constantly needed to be replaced and she gave up replacing them.

The Landlord testified that after the Tenant moved out the Landlord replaced all the light bulbs and the lights worked fine.

Deck Cleaning \$125.00

The Landlord testified that the Tenant left the deck unwept and unclean. The Landlord testified that the deck railings and glass panels were not clean. The Landlord testified that she cleaned the deck and railings and is seeking to recover her labour cost to perform the cleaning.

In reply, the Tenant testified that the deck was swept and the rails and panels were left clean. The Tenant testified that the decks are required to be cleaned by the property strata. The Tenant testified that when she moved in the deck was dirty and the Landlord informed her that the strata arranges for people to come and clean the deck each year. The Tenant testified that she is not permitted to use water to clean the deck as the water could affect other units. The Tenant testified that the deck was due for its yearly cleaning.

In reply, the Landlord provided testimony confirming that the building strata cleaned the deck in 2017 and cleaning the deck is a strata responsibility.

Damage \$144.38

The Landlord testified that the building strata charged her for repair costs due to damage done by the Tenant's son in the building hallway. The Landlord testified that the Tenant's son was riding his bicycle in the hallway and damaged the walls. The Landlord provided a copy of an invoice dated May 2018 from the strata for repair costs to the hallway.

In reply, the Tenant provided testimony acknowledging that her son scuffed some walls. She testified that she was going to clean off the marks; however, she did not clean because she ran out of time.

Loss of Rent \$775.00

The Landlord testified that the Tenant did not give sufficient notice to end the tenancy. The Landlord testified that the Tenant gave written notice on April 1, 2018, and moved out of the rental unit on April 30, 2018. The Landlord testified that she was not able to rent the unit out until May 15, 2018 and she suffered a loss of rent in the amount of \$775.00. The Landlord testified that she did not receive any rental income for the unit for the first two weeks of May 2018.

In reply, the Tenant provided testimony that she messaged the Landlord on April 1, 2018 and informed her that she was moving out. The Tenant submitted that the Landlord accepted her notice and said she was sorry that she was leaving.

Security Deposit

The Landlord applied for dispute resolution to keep the security deposit of \$750.00 in full or partial satisfaction of her claims.

The Tenant testified that she was not able to complete a walk out inspection with the Landlord on April 30, 2018 because she did not have her glasses with her and the parties disagreed about the condition and state of repair of the unit. The Tenant decided to leave the unit before the inspection was complete and she did not sign the condition inspection report.

Analysis

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

Sections 23 and 35 of the Act states that a Landlord and Tenant together must inspect the condition of the rental unit on the day the Tenant is entitled to possession of the rental unit, and at the end of the tenancy before a new tenant begins to occupy the rental unit. Both the Landlord and Tenant must sign the condition inspection report.

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 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.

Lost Key Charge \$100.00

The Tenant agreed to pay the Landlord \$100.00 for the lost key. I award the Landlord the amount of \$100.00.

Move Out Fee \$75.00

The Tenant agreed to pay the Landlord 75.00 for the move out fee charged by the building strata. I award the Landlord the amount of \$75.00.

Cleaning and Carpet Cleaning \$218.31

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

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 and is responsible for the Landlord's costs to clean the carpets.

The condition inspection report indicates that the wall areas of the entry, kitchen, livingroom and bathroom walls were left dirty. The Tenant chose to leave the rental unit before the inspection was complete and did not sign the report. I find that it is not reasonable to expect the Landlord to conduct the inspection on a different date due to the Tenant forgetting to wear her glasses. The Tenant could have completed the inspection and signed the report indicating that she does not agree that it fairly represents the condition of the rental unit. The Tenant could have then taken photographs to support her position that the unit was left clean.

I find that the Landlord has provided the better evidence that the rental unit was left unclean at the end of the tenancy.

I award the Landlord \$218.31 for the costs of cleaning and carpet cleaning.

Door Hook and Lightbulbs \$61.96

I find that the Tenant is responsible for the Landlords costs to replace a door hook and lightbulbs. A Tenant is responsible for replacing lightbulbs during a tenancy. The Tenant testified that one or two bulbs needed to be replaced and that she gave up replacing the lights in the kitchen. The Tenant submitted that her son accidentally pulled off a glued on hook on the bathroom door.

I grant the Landlord the amount of \$61.96.

Deck Cleaning \$125.00

The Landlords claim for \$125.00 for the cost of cleaning the deck is dismissed. The Tenant was not authorized to clean the deck due to potential risk of damage by water. I find that it was not the Tenant's responsibility to clean the deck or to pay the cost to clean the deck.

Damage \$144.38

I find that the Tenant is responsible for the damage caused by her son riding his bike in the hallway. I find that the Landlord paid \$144.38 for the repair costs and the Tenant is responsible to reimburse the Landlord for this cost.

I award the Landlord the amount of \$144.38

Loss of Rent \$775.00

Pursuant to section 45 of the Act a notice to end tenancy given by a Tenant must be given the day before the day in the month that rent is to be paid and cannot be earlier than one month after the Landlord receives the Notice.

I find that the Tenant did not give the Landlord the proper notice to end the tenancy because the notice was given on April 1, 2018, the same date that the rent was due, and the effective date of the notice was earlier than one full month after the Landlord received the notice.

Since the Tenant did not give proper notice to end the tenancy to the Landlord, the Tenant is responsible for any loss of rent suffered by the Landlord. The Landlord has the right to be put in the same position as if the tenancy had ended in accordance with the Act.

I accept the Landlord's testimony that she was unable to rent the unit until May 15, 2018 and that she suffered a loss of two weeks rent.

I award the Landlord the amount of \$775.00 for a loss of May 2018, rent.

Security Deposit

The security deposit of \$750.00 will be set off against the monetary awards granted 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 award in the amount of \$1,474.65. After setting off the security deposit of \$750.00 towards the award of 1,474.65, I grant the Landlord a monetary order in the amount of \$724.65. The monetary order must be served on the Tenant and may be enforced in the Provincial Court.

Conclusion

The Landlord was successful with her claims for compensation against the Tenant for damage and cleaning costs and a loss of rent.

I find that the Tenant owes the Landlord the amount of \$724.65. I grant the Landlord a monetary order in the amount of \$724.65.

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: March 20, 2019

Residential Tenancy Branch