



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing dealt with an application for Dispute Resolution filed by the Landlord. The Landlord filed seeking a monetary order for compensation for damage or loss under the Act, regulations or the tenancy agreement, to retain the Tenants' security deposit and to recover the filing fee for this proceeding.

Service of the hearing documents by the Landlord to the Tenants were done by registered mail on March 29, 2019, in accordance with section 89 of the Act.

Issues to be Decided

Landlord:

1. Are there damages or losses to the Landlord and if so how much?
2. Is the Landlord entitled to compensation for damages or losses and if so how much?
3. Is the Landlord entitled to retain all or a part of the Tenants' security deposit?

Background and Evidence

This tenancy started on August 1, 2017 as a month to month tenancy. Rent was \$950.00 per month payable on the 1st day of each month. The Tenant paid a security deposit of \$475.00 at the start of the tenancy. The Tenants said they moved out of the rental unit on October 31, 2018. The Landlord said the Tenants had all their belongings out of the house prior to October 31, 2018. A move in condition inspection report was completed on August 1, 2017 and the Landlord said she gave the Tenants two opportunities to do a move out condition inspection report on October 27, 2018 and November 2, 2018. The Tenants said those dates did not work for them and they

thought the move out condition inspection was scheduled for October 31, 2018 which was the end of the tenancy. As a result the Landlord completed the move out condition inspection report by herself. The date on the report is Oct. 27-31, 2018.

The Landlord continued to say that she made this application because there was damage to the rental unit and yard. The Landlord said she is claiming \$280.00 for carpet damage, \$250.00 for a stove replacement and \$95.00 for yard care. The Landlord said her total claim is to retain the Tenants' security deposit of \$475.00 and \$150.00 in additional costs plus the filing fee. The Landlord's claim is as follows:

- 1) The Landlord said she is claiming \$280.00 for damage to the carpet in the living room. The damage is a large stain on the carpet and a stag in the carpet. The Landlord said this is an estimate from the cost of the original new carpet installed in the unit at the start of the tenancy.
- 2) The Landlord said the Tenants left a stove that was removed from the unit outside and the stove was damaged beyond repair by the elements. The Landlord said this stove was removed from the rental unit because it did not work correctly and the Landlord supplied \$250.00 to the Tenants to get a new stove. The replacement stove didn't work correctly as well, so the Landlord replaced that stove on October 28, 2018 at the end of the tenancy. The Landlord is requesting \$250.00 for the replacement stove cost.
- 3) The Landlord last claim is for \$95.00 for damage to the yard and a weed problem that is the result of the Tenants' lack of yard maintenance. The Landlord said the Tenants did not mow the grass or do any weed removal during the tenancy.

The Tenants said that they shampooed the carpet at the end of the tenancy and the carpet stain and stag in the carpet was because the carpet was poor quality and poorly installed. The Tenants said the carpet stain and stag are normal wear and tear.

Further the Tenants said the stove they removed didn't work and the Landlord told them to put it outside and the Landlord would dispose of it. The Tenants said they didn't have a properly working stove from July 2018 to the end of tenancy October 31, 2018. The male Tenant said the Landlord replaced the stove on October 28, 2018.

The Tenants continued to say the lawn mower the Landlord supplied with the rental unit didn't work so they didn't mow the grass from August 2017 to June 2018. In June 2018 the Tenants purchased an electric lawn mower and weed eater to do the yard work. The male Tenant said he mowed the grass every couple of weeks after June 2018.

The Landlord submitted to letters from 2 witnesses indicating little to no yard maintenance was done at the rental unit during this tenancy.

The Tenants said in closing that the text messages show that the move out inspection was scheduled for October 31, 2018 and they were unable to make the other dates the Landlord proposed.

The Landlord said in closing that she tried to work with the Tenants but communication broke down and although the Tenants did a clean up in the yard and house at the end of the tenancy there was damage to the house and yard which the Landlord is requesting compensation for.

Analysis

Section 32 of the Act says:

(1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) A tenant of a rental unit 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.

(4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

It was established that the carpet was new at the start of this tenancy and the Tenants submitted photographs that show the stain in the living room carpet. Policy guideline # 40 indicates that carpet economic life expectancy is 10 years; therefore I find the Landlord has established grounds that the Tenants have damaged the carpet in excess of normal wear and tear. I award the Landlord \$280.00 for carpet damage.

Further the stove is part of the tenancy agreement and therefore is the responsibility of the Landlord. Any replacement stoves and handling of the stove should be done by the Landlord. It is not the Tenants' responsibility. The Tenants did tell the Landlord there was a problem with the stove, therefore the Landlord was responsible to remove the old

stove that didn't work correctly and replace it with a working stove. I accept the Tenants testimony that the stove didn't work and they were without a properly working stove from July 2018 to the end of the tenancy. Consequently I dismiss the Landlord's claim for compensation of \$250.00 for the stove replacement.

Finally, I accept that yard maintenance was part of the tenancy and although the Tenants did some yard maintenance at the end of the tenancy it was agreed by both the Tenants and Landlord little to no yard maintenance was done from August 2017 to June 2018. I accept this lack of maintenance by the Tenants had a negative impact on the yard of the rental unit. I find for the Landlord and award \$95.00 to the Landlord for yard damage as per the Landlord's claim.

I award the Landlord \$280.00 for carpet damage and \$95.00 for yard damage in the total amount of \$375.00.

As the Landlord has been partially successful in her application I order the Landlord to recover the filing fees of \$100.00 for this proceeding from the Tenants.

The Landlord is awarded a total claim of \$475.00 and is ordered to retain the Tenants' security deposit of \$475.00 as full satisfaction of this claim.

Conclusion

The Landlord is ordered to retain the Tenants' security deposit of \$475.00.

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: June 10, 2019

Residential Tenancy Branch