



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MND, FF*

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order to recover the costs of repair and cleaning and for 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. The 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*.

Both parties provided extensive documentary evidence. All parties' testimonies and evidence have been considered in the making of this decision. As this matter was conducted over 70 minutes of hearing time, I have considered all the written evidence and oral testimony provided by the parties but have not necessarily alluded to all the evidence and testimony in this decision.

Issues to be decided

Has the landlord established a claim for damages and if so in what amount? Is the landlord entitled to the recovery of the filing fee?

Background and Evidence

The tenancy started on March 01, 2016 and ended on February 28, 2019. The monthly rent at the end of tenancy was \$1,520.00. Prior to moving in, the tenant paid a security deposit of \$725.00. The landlord returned the security deposit to the tenant on March 09, 2019, shortly after the tenancy ended.

On May 24, 2019 the landlord made an application for the cost of repairs and cleaning,

The tenant testified that she had purchased a place of her own and on December 22, 2019, she had given the landlord notice to end the tenancy effective the end date of the fixed term which was February 28, 2019. The tenant stated that she moved out on February 09, 2019 but returned to the apartment on a few occasions to clean and repair.

The tenant stated that she had put up some wall hangings and had asked the landlord in an email whether she should repair the holes or whether the male landlord was going to do so. The tenant stated that she did not hear back. The male tenant went to the apartment around February 14 to fix the walls and found the landlord doing the work himself.

The landlord agreed that he went into the apartment without notifying the tenant and proceeded to fill the holes in the wall and clean the rental unit. The landlord also stated that he took photographs of the condition of the unit on February 23, 2019 and filed them into evidence. The parties met on February 24, 2019 to do a move out inspection and due to a difference of opinion the female tenant left and informed the landlord that she would consult with the male tenant and get back to him.

The landlord filed a hand-written note which he referred to as a partial move out inspection report. The report is a list of the cost incurred to repair and clean the rental unit. The move in inspection report consisted of a list of the items that were included in the monthly rent e.g. appliances, carpets etc. The list did not describe the condition of the appliances or the condition of the rental unit.

The landlord stated that a carpet in one of the bedrooms was stained and provided a photograph to support his testimony. The tenant stated that the carpet was stained at the start of tenancy. The landlord informed me that the carpets in the rental unit were 10 years old. In the absence of a move in inspection report, I am unable to determine whether or not the stain was present at the start of tenancy.

The landlord provided a close-up photograph of light fixtures that were removed from the ceiling. The photographs show dust on the fixtures. The tenant agreed that she did not dust the light fixtures.

A photograph taken on February 23, 2019 shows the space occupied by a drawer at the bottom of the stove. The photograph shows dirt and a toy. The tenant agreed that she retrieved the toy on February 24, 2019 but did not remove the dirt from under the stove.

The landlord has claimed the following:

1.	Cleaning	\$480.98
2.	Repairs	\$634.72
3.	Replacement of items	\$597.09
4.	Filing fee	\$100.00
	Total	\$1,812.79

Analysis

Based on the testimony of both parties and the documents filed into evidence I find that the tenant paid rent up to the end of February 2019 and moved out on February 09, 2019. The tenant returned to clean the rental unit and carry out repairs and found that the landlord had gone ahead and started the work. The landlord agreed that he had not provided the tenant with notice that he was going into the rental unit while they were still in possession of the unit.

1. Cleaning - \$480.98

In his written submission, the landlord stated that he cleaned the kitchen, tile grout, oven, curtains, sink, vents, bathtub, fixtures and balcony. The landlord stated that he did the cleaning himself and provided a breakdown of the cost that he charged for the cleaning of the individual items.

Based on the testimony of the parties, I find that the landlord did not give the tenant an opportunity to clean the unit. He carried out a move out inspection on February 24, 2019. The landlord stated that he took photographs on February 23, 2019. Since the tenancy ended on February 28, 2019 and the tenant had intentions of returning to clean and repair, I find that the landlord went ahead and cleaned the unit without giving the tenant an opportunity to clean.

However the tenant agreed that she had not cleaned under the stove and had not dusted the light fixtures.

The tenant stated that when she returned to the rental unit, she retrieved the toy that was left behind but did not clean the area. Based on the photographs, I find that the tenant did not fully clean the unit and that the landlord had done most of the cleaning prior to the end of the tenancy. However, the tenant did have an opportunity to clean below the stove and the dust the light fixtures but failed to do so.

Residential Tenancy Policy Guideline #16 states that an arbitrator may award “nominal damages” which are a minimal award. These damages may be awarded where there has been no significant loss, but they are an affirmation that there has been an infraction of a legal right. Based on the above I find it appropriate to award the landlord \$100.00 towards the cleaning of the rental unit.

2. Repairs - \$634.72

The landlord is claiming the cost of repairing closet doors and damage to the walls.

Residential Tenancy Policy Guideline #1 addresses **Landlord & Tenant – Responsibility for Residential Premises**. In part, this guideline provides as follows:

The tenant is not responsible for reasonable wear and tear to the rental unit. Reasonable wear and tear refers to natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion. An arbitrator may determine whether or not repairs or maintenance are required due to reasonable wear and tear or due to deliberate damage or neglect by the tenant.

I find that the landlord has not proven that the tenant deliberately damaged the closet doors. In addition, the tenant testified that when he returned to the rental unit to patch up the holes in the wall the landlord was in the process of doing so. The landlord has filed copies of receipts for supplies that he purchased to repair the damage to the walls.

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 landlord stated that he had painted the unit prior to the start of tenancy therefore by the end of the tenancy, the painting had one year of useful life left. Accordingly, I find it appropriate to award the landlord a portion of the cost of supplies in the amount of \$100.00.

3. Replacement of items - \$597.09

In his written submission, the landlord is requesting to be reimbursed for the replacement of closet doors, bulbs, padlock, fob, sink and plunger.

In the absence of proper move in and move out inspection reports that detail the condition of the rental unit, it is difficult to assess whether the damage existed or was created by the tenant. In addition, the landlord took photographs on February 23, 2019 and the tenancy ended on February 28, 2019. The landlord has not provided adequate information regarding the number of bulbs and the condition of the other items for which he is seeking the cost of replacement.

Based on the above, the landlord's claim for replacement of items is dismissed.

Overall the landlord has established a claim of \$100.00 for cleaning and \$100.00 for the cost of supplies. Since the landlord is partially successful in his application, I award the landlord the filing fee of \$100.00 for a total claim of \$300.00.

I grant the landlord a monetary order under section 67 of the *Residential Tenancy Act*, for \$300.00. 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 **\$300.00**.

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: August 28, 2019

Residential Tenancy Branch