



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Code MND, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the “Act”), for a monetary order for cleaning and damages to the unit and to recover the cost of the filing fee.

This matter commenced on July 6, 2020 and was adjourned to reconvene on August 24, 2020. The interim order should be read in conjunction with this decision.

On August 24, 2020, the landlord and landlord’s agent appeared. The tenant did not appear. The tenant provided a letter authorizing their agent to attend on their behalf.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the landlord entitled to monetary compensation for cleaning and damages?

Background and Evidence

The parties agreed that the tenancy began on July 15, 2017. Rent in the amount of \$1,200.00 was payable on the first of each month. The tenant paid a security deposit of \$600.00. The tenancy ended on November 30, 2019.

The parties were at a prior hearing based on unpaid rent. At the hearing the landlord was authorized to keep the security deposit at a prior hearing.

The parties agreed a move-in and move-out condition inspection report was not completed. The landlord testified that the property was in good condition when they

purchased two months prior to the tenancy commencing. The landlord stated that the tenant was the first person to occupy the premise. Filed in evidence are photographs of the rental unit prior to the tenancy commencing.

The landlord claims as follows:

a.	Garbage removal and disposal	\$ 178.50
b.	Labour for BS	\$ 130.00
c.	Landlord's labour for cleaning	\$ 120.00
d.	Labour for BS repairs	\$ 400.00
e.	Replacement of drapes	\$ 134.33
f.	Filing fee	\$ 100.00
	Total claimed	\$1,062.83

Garbage removal and disposal

The landlord's agent testified that the tenant left a lot of garbage behind which they had to hire someone to remove and dispose of the garbage. Filed in evidence is a receipt.

The landlord's agent testified that there was furniture items left in the rental unit, such as there was a box spring mattress, chair and shelving left in a bedroom. There was a cabinet left in the bathroom, various items left in a closet and a small bookshelf. Filed in evidence are photographs.

The landlord's agent testified that on the tenant's deck there was a wood shelf with some items left on it, there were bags of garbage and a small table and there were various other items. Filed in evidence are photographs.

The landlord's agent testified that in the carport there were various items left, there was 4 tires in the front yard a garbage left in the shed and chair and other garbage in the back yard.

The tenant's agent testified that the only item they left behind was the stuff that was in the Mr. Noodle box and that was simply an oversight. The agent stated that the box spring and cabinets were there at the start of the tenancy and the other items on the deck were not theirs and the items in the shed and yard, were either the landlords or the other tenants.

The tenant submits in their written response,

“the bathroom cabinets were there at the start of the tenancy. The patio area was left with the same items as when I moved in. Garbage bags were to be taken downstairs to the bins and was an oversight. The outside are items not mine, belongs to landlord or tenant downstairs possibly?”

[Reproduced as written.]

Labour for BS

The landlord’s agent testified that they spent six hours gathering garbage and that they had to clean the fireplace bricks and the wall from smoke damage. The agent stated that they were told when the tenant’s first boyfriend left that some furniture was burned in the fireplace.

The tenant’s agent testified that they washed the walls; however, the brick was dirty from normal use of the fireplace. The agent stated that they were not living in the rental unit and they have no knowledge if furniture items were burned in the fireplace.

The tenant submits in their written response,

“The fireplace was the main source of heating the house... Discoloration surrounding wood fireplaces is common occurrence and reasonable wear and tear.”

[Reproduced as written.]

Landlord’s labour for cleaning

The landlord’s agent testified that the tenant did not clean the appliances and the stove was extremely dirty, the windows had to be cleaned and one window had a massive spider web and all the heaters had to be cleaned to remove pet hair. The agents stated that the landlord spent six hours cleaning. Filed in evidence is a photograph of the oven which shows it is extremely dirty, items in the closet, and a large cobweb on the window and ledge.

The tenant’s agent testified that they lived in the rental unit and everything was cleaned at the end of the tenancy, except that they did not clean the pet hair out of the heaters.

The tenant submits in their written response as follows:

“Oven was unusable upon move in. Maintenance was done to it, new fuses installed, and a very thorough cleaning was needed. Oven was left cleaner than on move in date.”

“There was an over-the-toilet cabinet in front of that window, its reasonable that cobwebs would form”

[Reproduced as written.]

Labour for BS repairs

The landlord's agent testified that the tenant had a large dog in the rental unit, and they caused damage to the door frames and walls by scratching. The agent stated that the front door trim was deeply scratched, and the drywall was damaged. The agent stated that along the interior of the patio door it was damage all over. The agent stated that it took him a long time to repair the damage as they had to fill the trim and drywall with filler and then repaint. The agent stated that the landlord does not have a before picture of the front door area; however, they do have a before picture of the area by the patio door and the scratches and damage are consistent. Filed in evidence are before and after pictures of the patio door area and an after picture of the front door area.

The tenant's agent testified that a move-in inspection was not done and that the damage was there at the start of the tenancy. This is what is written in the tenant's response.

Replacement of drapes

The landlord's agent testified that the tenant was provided matching drapery at the start of the tenancy. The agent stated that at the end of the tenancy the drapery was missing and what was left was mismatching. The agent stated that the drapery left behind was also dirty and covered with pet hair. The agent stated that the drapery had to be replaced. Filed in evidence are before pictures show the drapes in good condition and matching. Filed in evidence are after pictures show the drapes mismatched and dirty. Filed in evidence is a receipt.

The tenant's agent testified the tenant replaced the drapes as they were told they were moldy and dirty and had to be replaced. The agent stated that the tenant left the drapery they purchased behind.

The tenant submits in their written response,

"Curtains needed to be replaced as the old ones were covered in mold and a toxic smell...."

[Reproduced as written.]

Analysis

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

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

How to leave the rental unit at the end of the tenancy is defined in Part 2 of the Act.

Leaving the rental unit at the end of a tenancy

37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

Garbage removal and disposal

In this case, I accept the evidence of the landlord's affirmed testimony over the tenant's written response that the tenant left furniture items in the rental unit, such as a box spring mattress, chair and cabinetry. I do not accept these items were there at the start of the tenancy. The witness statement of JD filed by the tenant, does not support this as it makes no reference that there was furniture in the rental unit when the tenancy commenced which would have been reasonable. Further, the tenant's agent was not there at the start of the tenancy and had no firsthand knowledge.

I am further satisfied that the items on the deck area are that of the tenant's, I do not accept these were there at the start of the tenancy. Further, there are recently purchased items on the deck, such as a bag of soil.

However, I am not satisfied that other items found in the front yard, shed and back yard area all belonged to the tenant, as it was possible that some of these items belonged to the other occupant. The landlord did not provide any evidence from the other occupant to rebut this claim.

Based on the above, I grant the landlord half of the amount claimed for disposal and removal of items in the amount of **\$89.25**.

Labour for BS

As I have found that the tenant did leave furniture items in the unit and BS did labour to gather these items, I find it reasonable to grant 2 hours of labour at the rate of \$25.00, for a total amount of \$50.00.

I further find that the bricks and wall surrounding the fire place needed additional cleaning due to smoke damage. The landlord has provided a photograph of the fireplace at the start of the tenancy. I do not accept the tenant's agent testimony that this is from normal use. I do not accept the tenant's written response that this discoloration is normal wear and tear. Rather, I find it more likely than not from misuse and or lack of cleaning during the tenancy. I find it reasonable to grant 2 hours of labour at the rate of \$25.00, for a total amount of \$50.00.

Based on the above, I find the landlord is entitled to recover a portion of BS labour in the total amount of **\$100.00**.

Landlord's labour for cleaning

Under the Residential Tenancy Policy Guideline 1, which clarifies the rights and responsibilities of the parties for the premises under the Act, the tenant is expected to clean the appliances, the windows, and the heat registers at the end of the tenancy.

I do not accept the written response of the tenant that they thoroughly cleaned the oven and that it was in a better condition from when the tenancy commenced. The photograph provided by the landlord does not support this, as nothing in the oven was cleaned. It would have been reasonable if the tenant had made any efforts to clean the appliance with a proper oven cleaner, at least the glass in the door would have been cleaned, which it was not. I find the tenant breached the Act, when they did not leave the oven reasonably clean.

I accept the tenant's written response that it is reasonable that cobwebs would form during the tenancy. However, it is the tenant's responsibility to clean the windows during the tenancy and at the end of the tenancy. I find the tenant breached the Act, when they failed to clean the windows at the end of the tenancy.

I am further satisfied based on the evidence of both parties that the tenant did not clean the heat registers, which were full of pet hair. I find the tenant breached the Act, when they failed to remove the pet hair from the heat registers at the end of the tenancy.

In light of the above, I do not find the labour time the landlord has claimed unreasonable. Therefore, I grant the landlord the total amount of **\$120.00**.

Labour for BS repairs

In this case, I accept the damage to the trim and drywall was caused by the tenant's pet. I do not accept the testimony of the tenant's agent that this was pre-existing as they were not in the rental unit at the start of the tenancy. Further, this is not supported by the witness statement of JD filed by the tenant as evidence. The statement only refers to the renovation occurring in the lower unit and issues of cleaning in the rental unit, such as stains on carpets. I find if such damage was present at the start of the tenancy it would have been reasonable for JD to provide this significant detail in their witness statement.

The landlord has provided a photograph of the area of the wall by the patio door at the start of the tenancy and there was no damage to the trim or drywall. The landlord has provided a photograph of this area at the end of the tenancy, which shows it was extremely scratched or chewed. This damage is consistent with the damage at the front door which looks like from a pet scratching or chewing. I find it more likely than not that the damage was caused by the tenant's pet.

I find the tenant breached the Act, when they failed to repair the damage caused by their pet and this caused losses to the landlord. I find the labour claimed by BS reasonable based on the work required to make the necessary repairs. Therefore, I find the landlord is entitled to recover the amount of **\$400.00**.

Replacement of drapes

In this case the drapery was included in the rent. The tenant removed that drapery and replaced it. I do not accept the tenant's written submission that it was covered in mold and had a toxic smell. The photographs provided by the landlord show the curtains were in good condition at the start of the tenancy. Further, if there was a problem with the drapery, it was the tenant's responsibility to notify the landlord as it was likely the drapery could have been cleaned. The tenant did not have the right to dispose of the landlord's property. While the tenant may have left drapery, they were mismatched and extremely dirty. I find the tenant breached the Act, when they made changes to the rental unit. Therefore, I find the landlord is entitled to recover the cost of the drapery in the amount of **\$134.33**.

I find that the landlord has established a total monetary claim of **\$943.58** comprised of the above described amounts and the \$100.00 fee paid for this application. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlord is granted a monetary order in the above noted amount.

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 26, 2020

Residential Tenancy Branch