



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAXIMUM INCOME PROPERTY MANAGEMENT
CORP and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD, FF

Introduction

On September 26, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for a monetary order for damage to the unit; to keep the security deposit; and to recover the cost of the filing fee.

The matter was set for a conference call hearing. The Landlord’s agents (“the Landlord”) and the Tenant Ms. T.H. attended the teleconference.

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. The Tenant called into the hearing 10 minutes late and was provided a summary of the Landlord’s testimony and was given a full opportunity to respond to the claims.

The Tenant did not provide any documentary evidence in response to the Landlord’s application. 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.

Issues to be Decided

- Is the Landlord entitled to a monetary order for damage to the unit?
- Is the Landlord entitled to keep the security deposit towards the claims?

Background and Evidence

The Landlord testified that the tenancy began on September 1, 2017, as a one-year fixed term tenancy that was extended for an additional year and continued thereafter on a month to month basis. Rent in the amount of \$1,066.00 was to be paid to the

Landlord by the first day of each month. The Tenant paid the Landlord a security deposit in the amount of \$500.00. The Landlord testified that the Tenant moved out of the rental unit on June 15, 2020.

Carpet Cleaning \$126.00

The Landlord testified that the carpet was left dirty/ stained at the end of the tenancy. The Landlord testified that the Tenant failed to clean the carpet and the Landlord is seeking to recover the cost of having the carpet cleaned. The Landlord provided photographs of the carpet and an invoice for the cost to have the carpet cleaned.

In reply, the Tenant testified that she vacuumed the carpet and it was in good condition with normal wear and tear. She testified that's he did not have the carpet cleaned. She testified that she understood that there was no requirement for her to have the carpet cleaned at the end of the tenancy.

In reply, the Landlord pointed out that the tenancy agreement requires the carpet to be professionally cleaned at the end of the tenancy.

Wall Repainting \$315.00

The Landlord testified that the Tenant is responsible for having the bedroom walls repainted. The Landlord testified that the Tenant was responsible for a fire that damaged the bedroom carpet and caused smoke damage / marks on the bedroom wall. The Landlord testified that it cost \$315.00 to repair / repaint the bedroom walls. The Landlord provided photographs and a copy of an invoice for the cost to repaint the bedroom.

In reply, the Tenant testified that she was responsible for a small fire in the bedroom, so she replaced the bedroom carpet. She testified that she spoke to the owner of the unit who told her that she only needed to wash the walls and was not required to repaint the walls.

In reply, the Landlord refuted that the owner waived the Tenants responsibility for the cost to repair/ repaint the walls.

Security Deposit

The Landlord is seeking to keep the security deposit of \$500.00 in satisfaction of the claims.

Analysis

When a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. To prove the claim, the Applicant must satisfy the following four elements on a balance of probabilities:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act, Regulation or tenancy agreement;
3. Proof of the actual amount required to compensate for the claimed loss; and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Residential Tenancy Branch Policy Guideline # 16 states the following with respect to types of damages that may be awarded to parties:

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.

Based on the evidence before me, the testimony of the Landlord and Tenant, and on a balance of probabilities, I make the following findings:

Carpet Cleaning

Residential Tenancy Branch 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 tenancy was for a duration of more than one year and I accept the evidence before me that the Tenant failed to have the carpet steam cleaned at the end of the tenancy.

I award the Landlord \$126.00 for the cost of carpet cleaning.

Wall Painting

I find that the Tenant was responsible for the fire in the bedroom and therefore she is responsible for the cost to clean/ repair the bedroom and walls.

While the Tenant suggests that the owner told her she did not have to repaint the room, there is insufficient evidence before me from the Tenant to prove this. I find that the Tenant is responsible for the cost to repaint the bedroom.

I award the Landlord \$315.00 for the cost to repaint the bedroom.

Security Deposit

The Landlord applied to keep the security deposit towards his claims. The security deposit of \$500.00 will apply to the 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. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a monetary claim in the amount of \$541.00. After setting off the security deposit of \$500.00 towards the award of \$541.00 I find that the Tenant owes the Landlord the balance of \$41.00.

I grant the Landlord a monetary order for the balance of \$41.00. This monetary 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 was successful with his claims for painting and cleaning costs.

I authorize the Landlord to retain the security deposits of \$500.00 that he is holding. I order the Tenant to pay the Landlord the amount of \$41.00 and I grant the Landlord a monetary order in the amount of \$41.00.

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: October 28, 2020