



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VANTAGE REALTY WEST
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNDC, MNSD, FFL

Introduction

On August 26, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking money owed or compensation for damage or loss; a monetary order for unpaid rent; and to keep the security deposit.

The matter was set for a conference call hearing. The Landlord’s agent and the Tenants attended the teleconference hearing. The Tenants were assisted by their advocate. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The evidence was reviewed and confirmed received by each party. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during 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.

Issues to be Decided

- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Is the Landlord entitled to other compensation for damage or loss?
- Can the Landlord keep the security deposit towards the claims?

Background and Evidence

The Landlord and Tenants testified that the tenancy began on December 30, 2015, as a one-year fixed term tenancy that continued thereafter on a month to month basis. Rent in the amount of \$2,050.00 was to be paid to the Landlord by the first day of each month. The Tenants paid the Landlord a security deposit of \$750.00 and a pet damage

deposit in the amount of \$500.00. The tenancy ended on June 30, 2020. The Landlord provided a copy of the tenancy agreement.

Unpaid Rent

The Landlord testified that the Tenant failed to pay the rent owing under the tenancy agreement for the month of June 2020. The Landlord testified that rent payments made by the Tenants were sporadic due to covid 19.

The Landlord testified that prior to June 1, 2020 there was already a balance of unpaid rent owing. Including June 2020 rent, the Tenants owed the amount of \$3,296.00. The Landlord testified that \$1,750.00 was received from the Tenants towards May 2020 rent. The Landlord testified that they received an additional payment of \$322.65 from the Tenants on June 30, 2020.

The Landlord is seeking a monetary order for unpaid rent in the amount of \$1,223.35.

In reply, the Tenant's advocate submitted that the Landlord has kept the security deposit and pet damage deposit towards the unpaid rent and that the balance owing is now zero.

Damage

The Landlord submitted that at the end of the tenancy the rental unit was found unclean and in a damaged condition. The Landlord provided approximately 135 photographs; however, many of the photographs are duplicates.

The Landlord testified that the rental unit required clean up, painting, flooring, baseboards, cabinets and reinstalled closet doors. The Landlord provided a copy of an invoice from a contractor dated July 13, 2020 in the amount of \$2,940.00. The Landlord testified that the contractor did not provide him with copies of any receipts for the cost of cleaning and repairs.

The Landlord provided photographs he took of the rental unit at the end of the tenancy.

Reinstall Closet Doors

The Landlord testified that at the end of the tenancy there were closet doors found that were not on their tracks and needed to be reinstalled. He testified that the contractor had to reinstall the doors.

In reply, the Tenants testified that during the tenancy they had asked the Landlord to come and repair the four bifold doors. They testified that the Landlord did not respond to their request, so the Tenants left the doors off.

Cleaning Costs

The Landlord stated that the rental unit was left unclean. The Landlord testified that there was debris left behind and that the stove was dirty, the cabinets were dirty, and the windows and trim was dirty. The Landlord is seeking compensation for 16 hours of cleaning that was performed to the rental unit.

The Tenants replied that the rental unit was left reasonably clean to their standards. They testified that the Landlord told them he would be renovating and not to be concerned about cleaning.

Painting Costs

The Landlord testified that at the end of the tenancy many areas required repainting. He testified that there were holes and peeling paint. He testified that there were four or five spots where the Tenants mudded the walls but did not complete the repair.

In reply the Tenants testified that they lived there for 4.5 years and there is reasonable wear and tear on the unit. The Tenants submitted that the quality of paint used on the walls was poor and they are not responsible for painting costs.

Laminate Flooring

The Landlord testified that the laminate floors were damaged by water and needed to be replaced. The Landlord testified that water was spilled on the flooring from a planter. The Landlord testified that it took 12 hours for the flooring replacement and the cost was \$750.00. The Landlord testified that the laminate flooring was 4.5 to 5 years old.

In reply, the Tenants testified that the Landlord has not provided any proof that the floor replacement work has been performed. The Tenants state that the Landlord has not provided any receipts. The Tenants submitted that the quality of the flooring was very low quality that just mopping the floor cause the edges to curl and joints to swell.

Damaged Cabinet

The Landlord testified that a cabinet had to be put back together. The Landlord testified that the cabinet broke at the start of the tenancy and the repair was made by the Landlord at the end of the tenancy. The Landlord stated it took one hour of labor to complete the repair.

In reply, the Tenants testified that the kitchen cabinets are over 40 years old and have seen wear and tear. The Tenants testified that for three years they asked the Landlord to repair the cabinet. The Tenants testified that the drawer face was held on by finishing nails.

Refrigerator

The Landlord testified that the interior parts of the refrigerator were found to be disassembled. The Landlord is seeking 20 minutes of labor to be assembled.

In reply, the Tenants testified that the refrigerator is not broken, they just removed some parts because that's how they wanted to use the space in the fridge. They testified that the parts just needed to be reinstalled.

Disposal of Items/ Garbage

The Landlord testified that the Tenants left numerous items behind including a cabinet; refrigerator; table; wood pallets; cooler; rug; boots and a target. The Landlord is seeking the cost of 8 hours of labor for the removal and disposal of these items.

The Landlord testified that the Tenants are responsible for damage to a 10 x 20 carpet located on the balcony. The Landlord testified that the age of the carpet is unknown.

In reply, the Tenants testified that they went back to the rental property and picked everything up except the refrigerator.

The Tenants testified that the refrigerator that the Landlord states was disposed of is actually still on balcony of the rental property being used.

In reply, the Landlord apologized stating that he had been informed by the contractor that it had been removed.

The Tenants testified that one year into the tenancy they replaced/ covered over the carpet on the deck at their own cost. The Tenants testified that the original blue carpet was 40 years old and damaged.

Security Deposit

On August 26, 2020, the Landlord submitted an Application for Dispute Resolution and applied to keep the security deposit and pet damage deposit towards unpaid rent or damage.

The Tenants responded that the Landlord applied the security deposit and pet damage deposit to the unpaid rent.

Analysis

The party making a claim for compensation against another party bears the burden of proof. Section 7 of the Act provides that if a Landlord or Tenant does not comply with the Act, the regulations, or their tenancy agreement, the non-complying Landlord or Tenant must compensate the other for damage or loss that results.

To be successful with a claim for compensation an applicant must prove:

1. That the other party breached the Act, regulation or tenancy agreement.
2. That the breach caused the party making the application to incur damages or loss as a result of the breach.
3. The value of the loss; and,
4. That the party making the claim took reasonable steps to minimize the damage or loss.

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.

Residential Tenancy Policy Guideline #1 Landlord & Tenant - Responsibility for Residential Premises is intended to help the parties to an application understand issues

that are likely to be relevant and may also help parties know what information or evidence is likely to assist them in supporting their position. The policy guideline provides that 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. A tenant is not responsible for reasonable wear and tear to the rental unit or site. The landlord is responsible for repairs to appliances provided under the tenancy agreement unless the damage was caused by the deliberate actions or neglect of the tenant. The Landlord is responsible for painting the interior of the rental unit at reasonable intervals.

The Residential Tenancy Policy Guideline #40 Useful Life of Building Element's provides that the useful life of interior paint is four years and the useful life of hardwood flooring is 20 years. The guideline does not provide the useful life of laminate flooring.

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

Unpaid Rent

The Tenants acknowledged that they did not pay the rent when it was due under the tenancy agreement and that the Landlord is keeping the security deposit and pet damage deposit towards the unpaid rent.

I award the Landlord the amount claimed of \$1,223.35 for unpaid rent.

Reinstall Closet Doors

I accept the Tenants testimony that the bifold doors came off their tracks during the tenancy. I accept the Landlords testimony that the bifold doors were found uninstalled.

There is insufficient evidence that the Tenants misused the doors causing them to come off their tracks. I find that this is a common occurrence and a building element that the Landlord is responsible to maintain. The Landlords claim to be compensated for reinstalling the bi-fold doors is dismissed.

Cleaning Costs

I have reviewed the Landlord's documentary evidence and I find that the rental unit was left in an unclean condition. I do not accept the Tenants submission that the rental unit was left to a reasonable standard. I accept the Landlord's testimony that two people

spent 8 hours each to clean the rental unit. I find that it is reasonable to award the Landlord the amount of \$25.00 per hour for the cleaning costs.

I award the Landlord the amount of \$400.00 for the cost to clean the rental unit.

Painting Costs

I find that the tenancy continued for approximately 4.5 years and that the age of the interior paint was at least 4.5 years old. I find that the interior paint had reached its useful life. The Landlord is responsible to periodically repaint the interior of a rental unit.

The Landlords claim for painting costs is dismissed.

Laminate Flooring

I accept the Landlord's testimony that the laminate flooring in the unit was approximately five years old.

With respect to the useful life of laminate flooring, the useful life of building elements guideline does not contain a specific entry for useful life of laminate flooring, I find it is reasonable that the useful life of laminate flooring is less than hardwood flooring and will depend on its construction quality and installation. I find that laminate flooring in a rental unit has a useful life of approximately 10 years. I find that the laminate flooring had approximately five years of useful life remaining at the end of the tenancy.

There was no testimony provided from anyone that the Tenants were given specific instruction from the Landlord on the care and maintenance of the laminate flooring. I have reviewed the tenancy agreement and five-page addendum, and I find that there is no specific mention on the care / maintenance of laminate flooring.

I have reviewed the Landlords' documentary evidence and reviewed the photographic evidence provided. I find that the Landlords' photographs show that the laminate flooring is raised/ swollen at the seams or joints. I note that visible gaps can be seen between some of the laminate boards. I accept the Landlord's evidence that the laminate flooring was damaged.

With respect to the Landlord's claim for compensation, the Landlord stated that new laminate flooring was installed in the unit. The Tenants pointed out that there is no evidence from the Landlord showing that the flooring was replaced, and no receipts

were provided for the purchase of flooring materials. I have reviewed the Landlord's documentary evidence and I find that there is no photographic or other documentary evidence to support the Landlords testimony that the flooring was replaced.

To be successful with a claim for compensation an applicant must prove that they suffered a loss because of a breach by the other party, and they must also prove the value of the loss. The Landlord's invoice simply states "flooring" with no specific amount assigned to the repair/replacement. I find that the Landlord has not provided sufficient evidence to prove the value of his loss.

I find that the Tenants are responsible for causing damage to the laminate flooring by spilling water and/ or mopping the floors; however, I find that a mitigating factor is lack of specific instruction on care and maintenance and the quality of flooring and installation. I note that there are visible gaps between the laminate floor boards. I find that it is not unreasonable to accept that water may be accidentally spilled on flooring or be present from mopping the floor. Any gaps in the flooring would cause water ingress and could cause damage/ swelling.

Since the Tenants bear some responsibility for the damage to the flooring and since the Landlord has not provided sufficient evidence to prove the value of loss, I find that it is appropriate to award the Landlord a nominal damages of \$150.00.

Damaged Cabinet

I have reviewed the photographic evidence and I accept the Tenants submission that the cabinet is approximately 40 years old. I find that there is insufficient evidence from the Landlord to prove that the tenants are responsible for causing intentional damage to the drawer face causing it to fall off. I find that the drawer face fell off due to normal use or normal wear and tear.

The Landlords claim for compensation to repair the drawer face is dismissed.

Refrigerator

I find that the Tenants did not damage the refrigerator; they simply left some parts uninstalled. I find that it is a simple matter for the Landlord to install the drawers or shelves and that a claim to be compensated for this work is not reasonable.

The Landlords claim for compensation to reassemble the refrigerator is dismissed.

Disposal of Items/ Garbage

The Tenants provided the stronger evidence that they removed their items from the rental property. The Landlord apologized for making a claim for the removal and disposal of a refrigerator and stated that the contractor told him it was removed.

In addition, the Landlord is making a claim to be compensated for damage to 5- 15-year-old damaged carpet on the balcony. The Tenants replied that they had purchased the carpet themselves at their own cost to cover up an existing 40-year-old grey damaged carpet.

It appears to me that the Landlord is not specifically aware of what was and was not removed from the rental property and is relying on second-hand information provided to him from a contractor who was not in attendance at the hearing.

The Landlords claim for compensation for removal and disposal of items is dismissed.

Security Deposit

The Landlord has applied to keep the security deposit and pet damage deposit towards unpaid rent. The Tenants acknowledged that the Landlord could keep the deposits towards unpaid rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. The Landlord had some success in the hearing. I order the Tenants to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$1,823.35 comprised of \$1223.35 in unpaid rent; \$400.00 for cleaning costs; \$150.00 for flooring; and the \$100.00 fee paid by the Landlord for this hearing.

After setting off the security deposit and pet damage deposit of \$1,250.00 towards the award of \$1,773.35, I find that the Landlord is entitled to a monetary order in the amount of \$623.35. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenants are cautioned that costs of such enforcement are recoverable from the Tenants.

Conclusion

The Landlord has established a monetary claim for unpaid rent and damage to the unit in the amount of \$1,773.35.00. I order that the Landlord can keep the security deposit and pet damage deposit of \$1,250.00 in partial satisfaction of the Landlord's claim.

I grant the Landlord a monetary order in the amount of \$623.35.

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: December 16, 2020

Residential Tenancy Branch