



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDCL, MNSD, FF

Introduction

On March 31, 2021, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for a monetary order for damage to the unit; for money owed or compensation for damage or loss; to keep the security deposit; and to recover the cost of the filing fee.

On April 5, 2021, the Tenant submitted an Application for Dispute Resolution under the *Act* for the return of a security deposit and or pet damage deposit; and to recover the cost of the filing fee.

The matters were set for a conference call hearing. The Landlord and Tenant attended the teleconference.

At the start of the hearing, I introduced myself and the participants. 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 parties testified that they have exchanged the documentary evidence that I have before me. The parties were informed that recording the hearing is not permitted.

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.

Preliminary and Procedural Matters

The Tenant provided the Residential Tenancy Branch with 18 color photographs showing the rental unit at the end of the tenancy. The Landlord stated that the Tenant

provided black and white photographs to him and the Landlord wants color photographs. I find that the Landlord is entitled to have color photographs, so he has the same evidence that will be considered by the Arbitrator. The Tenant agreed to serve the Landlord with a copy of the 18 color photographs within two days after the hearing. I order the Tenant to provide the color photographs to the Landlord within two days of the hearing.

Issues to be Decided

- Is the Landlord entitled to a monetary order for damage to the unit?
- Is the Landlord entitled to money owed or compensation for damage or loss?
- is the Landlord entitled to keep the security deposit and pet damage deposit towards their claims?

Background and Evidence

The Landlord and Tenant testified that the tenancy began on August 1, 2020 and was on a month-to-month basis. Rent in the amount of \$1,600.00 was to be paid to the Landlords by the first day of each month. The Tenant paid the Landlords a security deposit in the amount of \$800.00 and a pet damage deposit in the amount of \$800.00. The parties testified that the tenancy ended on March 15, 2021 when the Tenant moved out of the rental unit.

Damage

The Landlord's application indicates the Landlord is seeking \$300 for the cost to repair the following items:

- Stove Top \$200.00
- Livingroom floor \$25.00
- Blind \$20.00
- Vanity (withdrawn)
- Wall damage \$150.00

Stove Top \$200.00

The Landlord testified that there was a build up of burned food on the glass cook top. The Landlord is seeking \$200.00 for the cost to replace the cooktop. The Landlord stated that the cooktop is 12 years old. The Landlord stated that he has re-rented the unit at the same amount of rent to a new tenant who is using the same stove. The Landlord provided a photograph of the stove top.

In reply, the Tenant testified that he did not do any damage to the stove top. He stated that he cleaned the stovetop using the proper cleaner, and that glass stove tops are prone to wear and tear. He stated that there was visible wear and tear on the glass stove top when he moved in.

Livingroom floor \$25.00

The Landlord testified that a 10-inch by 12-inch section of the wood floor was damaged and required sanding, staining, and refinishing. The Landlord provided a photograph of the floor.

In reply, the Tenant testified that he never damaged the floor and there were scratches present when he moved in. The Tenant stated that he is not sure how the Landlord repaired the floor since the floors are made of plastic.

Blind \$20.00

The Landlord testified that a vinyl window covering / blind over the entrance door has a broken top slat. The Landlord testified that the blind is five years old, and he is seeking \$20.00. The Landlord did not provide a receipt. The Landlord stated that the blind was not broken at the start of the tenancy.

In reply, the Tenant testified that he is not responsible for breaking the blind and that there were problems present with numerous blinds right at the start of the tenancy.

Vanity

The Landlord stated that there was a leak that caused damage to a vanity; however, the Tenant is not responsible.

Wall Damage \$150.00

The Landlord testified that the Tenant installed an LED light strip on a wall and that when the lights were removed, paint came off the wall. The Landlord stated that his neighbor informed him it would cost \$150.00 to repair the wall.

The Tenant stated that he left the lights on the wall and left the remote control for the lights. The Tenant stated that the lights could have been removed using a hair dryer.

Cleaning \$300.00

The Landlord testified that the rental unit was left in an unsuitable condition for the next tenants. The Landlord testified that the Tenant did not clean behind the fridge and stove and the washer and dryer were not clean. The Landlord stated that there were cobwebs and dust bunnies. The Landlord stated that the baseboard heaters were not wiped, and the window tracks were not cleaned.

The Landlord testified that he performed the additional cleaning of the unit and is seeking compensation of \$300.00 for eight hours of cleaning. The Landlord provided photographs of the rental unit at the end of the tenancy.

In reply, the Tenant testified that he hired a professional cleaning company to clean the rental unit. The Tenant provided a copy of an invoice dated March 9, 2021 from a cleaning company. The Tenant provided 18 color photographs showing the condition of the rental unit at the end of the tenancy. The Tenant stated that it would not take 8 hours to clean a small 2-bedroom cottage.

The Landlord stated that they called the cleaning company and was informed that the cleaners ran out of time and could only do so much.

Security Deposit

The Landlords applied to keep the security deposit of \$800.00 in partial satisfaction of the Landlord's claims. The Tenant applied for the return of the security deposit.

The Landlord stated that the \$800.00 pet damage deposit was applied to March 2021 rent. The Landlord is only holding a \$800.00 security deposit.

The Tenant provided testimony confirming that the pet damage deposit was applied towards March 2021 rent. The Tenant testified that he provided his forwarding address to the Landlord on March 17, 2021. The Tenant testified that there was no written agreement that permitted the Landlords to keep any amount of the security deposit. The Tenant testified that the Landlord did not return any amount of the security deposit to him. The Tenant applied for double the amount of the security deposit in case the Landlord had not applied to keep it within the required time period.

In reply, the Landlord testified that he received the Tenants forwarding address on March 17, 2021. The Landlord applied for dispute resolution and included a claim against the security deposit on March 31, 2021.

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.

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.

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

Stove Top \$200.00

I find that the stove top is 12 years old, and it is reasonable to accept that a glass stove top will show signs of wear and tear. I find that other than appearance, the stove top is functional and is being used by a new tenant. I have reviewed the Landlord's photographs and I find that it shows sign of normal use for a 12-year-old stove top.

The Landlords claim for the Tenant to pay the replacement cost of the stove top is dismissed without leave to reapply.

Livingroom Floor \$25.00

I have reviewed the Landlord's photograph of the living room floor. I find that the photograph shows light scratches over a small area of two slats. The floor appears to be laminate or vinyl flooring. I note that the condition inspection report indicates the condition of the floor is good. There are no notations of any damage to the floor in the move in inspection report.

I am satisfied that a small amount of damage to the floor was present at the end of the tenancy. I find that the Tenant is responsible for the scratches to the floor, and I find it is reasonable to compensate the Landlord \$25.00 for the damage.

Blind \$20.00

I note that the condition inspection report indicates the condition of the blind in the living room is good at the start of the tenancy. I find that the blind is five years old. The Landlord's photograph shows a plastic blind with end of the top slat broken/ missing. The Landlord has not provided a receipt for the blind and his testimony was silent on whether or not the blind was replaced. The Landlord provided no receipt for the purchase of a blind. I find that the Tenant is responsible for the damage to the blind. Since the Landlord has not established the value of his loss, I award him a nominal damages award of \$5.00.

Vanity

The Landlord stated that the Tenant is not responsible for damage to a vanity. The Landlords claim is dismissed.

Wall Damage \$150.00

The Tenant acknowledged that he placed the LED lights on the wall and left the lights when he vacated the rental unit. I find that the Tenant is responsible for the Landlords costs to repair any damage caused to the wall when the lights were removed. I find that it is not reasonable to expect the Landlord to know how to remove the lights using a hair dryer.

The Landlord did not state that he has repaired the wall and did not provide any official estimate for the cost of repair. The Landlord stated that his neighbor said it would cost \$150.00 to repair the wall. The Landlord's photographs of the rental unit shows a photograph of the lights on the wall but does not include a photograph showing damage to the wall after the lights were removed.

The Landlord provided insufficient evidence that the wall is damaged and was repaired. The Landlord's claim for the cost to repair a wall is dismissed without leave to reapply.

Cleaning

I have reviewed the Landlord's and Tenant's photographs showing the condition and state of cleanliness of the rental unit at the end of the tenancy. I find that the tenant's photographs show that he left areas of the rental unit clean or reasonably clean. I find that the Landlord provided photographs of areas in the rental unit that were left unclean. I find that a window track and window were left unclean. The walls and light switches show dirt/ dust, and the baseboards are unclean. Under the oven was left unclean. While I accept the testimony and evidence of the Tenant that he hired a company to clean the unit, I find that the rental unit required additional cleaning.

I find that the Tenant did not leave the entire rental unit reasonably clean, and I find he is responsible for the Landlord's labor cost for the additional cleaning of the rental unit.

I find that the Landlord's claim for \$300.00 is a reasonable claim for the cleaning that was required. I grant the Landlord the amount of \$300.00 for cleaning of the rental unit.

Security Deposit

I find that the Landlord received the Tenant's forwarding address in writing on March 17, 2021 and made a claim against the security deposit and pet damage deposit when he applied for dispute resolution on March 31, 2021. The Landlord applied against the deposits within 15 days as required by the Act.

The security deposit of \$800.00 will apply to any successful claims awarded to the Landlord.

Section 72 of the Act also gives me authority to order the repayment of a fee for an application for dispute resolution. Since both parties had some success, I decline to award the recovery of the filing fees.

The Landlord established a monetary award of \$330.00. I find that the Tenant owes the Landlord the amount of \$330.00 for cleaning and repairs to the rental unit.

I authorize the Landlords to retain the amount of \$330.00 from the \$800.00 security deposit. I order the Landlords to repay to the Tenant, the balance of \$470.00 from the security deposit.

I grant the Tenant a monetary order in the amount of \$470.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Landlords are cautioned that costs of such enforcement are recoverable from the Landlords.

Conclusion

The Landlord was partially successful with his claims for cleaning and damage costs. I authorize the Landlord to retain the amount of \$330.00 from the \$800.00 security deposit they are holding.

I order the Landlords to repay the Tenant the balance of \$470.00 and I grant the Tenant a monetary order in the amount of \$470.00.

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: September 22, 2021

Residential Tenancy Branch