



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD

Introduction

The landlord seeks a monetary order for damages to the rental property and seeks to retain the security deposit in partial satisfaction of the claim for damages. In total the landlord seeks \$1,500.00.

Both parties appeared at the hearing and gave evidence under oath.

Issues(s) to be Decided

Is the landlord entitled to a monetary order for damages to the rental property and retain the security deposit?

Background and Evidence

This tenancy began on December 1, 2009 and lasted about 6 months. The landlord testified that the rental unit was 3 years old when the tenant moved in and it was in immaculate condition. The Condition Inspection Report prepared at move in documented some damage but noted no damage to the laminate flooring or kitchen countertops. However at move out the report states that there were 5 dents in the flooring and there were knife marks on both sides of the sink on the kitchen counter. The landlord submitted estimates to repair these damages. A new countertop to replace the scratched countertop will cost 4450.00 plus labour of \$350.00 to remove the old counter and install the new one. The landlord says the cost is high because plumbing must also be disconnected and re-installed. The total cost with HST for the countertop is \$896.00. The landlord also submitted an estimate to remove and fix

damage floor boards and reinstall them to be \$672.00 with GST. The landlord says the cost is high because some cupboards must be removed and reinstalled as the laminate flooring goes under the cupboards. No photographs of the damages were submitted by the landlord.

The tenant does not dispute the damages he is, however, he is disputing that they are significant and for this reason he declined to sign the move-out inspection report. The tenant also disputes the sums the landlord is claiming for the repairs. The tenant says that when he was moving out a punchbowl was dropped on the laminate flooring causing the dents in the flooring. The tenant says he did not notice any knife cuts on the countertops. Further that he would simply not use his expensive chef's knives on the countertop. The tenant disagrees that the marks on the countertop are from knife cuts. The tenant speculates that his crock pot liner which is ceramic and has a rough bottom may have caused. The tenant says he believes the damage to the countertop to be normal wear and tear, that it could be repaired with a filling compound and does not require replacement.

Analysis

The landlord bears the burden of proving his claims. He has submitted estimates for the work he says is required but he has not submitted evidence to show that the work has actually been done. I am therefore not satisfied as to the actual cost of the repairs. Further, while I find that dents in the laminate flooring and scratches on the countertop to be more than normal wear and tear, it is clear that these damages have not resulted in a complete loss of use of the rental unit or even a loss of use of the damaged items themselves such that the tenant should be required to pay the entire estimated replacement cost. To allow such a claim would be similar to allowing a rental car company's claim for the entire cost of a vehicle that had been returned by a customer with dents or scratches. Yes, the value of the automobile has been diminished however it is still functioning and can be re-rented. Such is the case with this rental unit. I therefore decline to award the landlord the \$1,500.00 he has claimed. However, I will

allow the landlord to retain the security deposit in its entirety which amounts to \$362.50 to compensate him for the diminished value of the countertops and floors which I find to be fair in the circumstances.
