



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNSD, MND, MNDC, FF*

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for a monetary order to recover the costs of repair to the rental unit and for the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of his claim. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Has the landlord established a claim against the security deposit and if so in what amount? Is the landlord entitled to the recovery the filing fee?

Background and Evidence

The tenancy started on July 01, 2008 and ended on June 30, 2010. The monthly rent was \$1,650.00. Prior to moving in, the tenant paid a security deposit of \$825.00. The rental unit is a two level home.

After the tenant moved out, the parties emailed each other back and forth in an attempt to settle the landlord's claim for damages. The damage that was established was a burn mark on the carpet on the lower level, a stain on the carpet in the upper level and damage to the hard wood floors.

In one of the emails dated July 01, 2010, the tenant stated that refinishing the hardwood was estimated at \$600 -700 by the landlord and that the tenant was willing to pay a portion of the cost. However, it appeared to the tenant that the landlord wanted to keep the entire damage deposit of \$825.00 and in the interest of leaving things on a positive note, the tenant reluctantly agreed to allow the landlord to keep the security deposit.

On February 07, 2011, approximately eight months after the tenancy ended, the landlord applied for a total of \$2,543.13 to repair the flooring. The landlord also stated that new tenants moved in at the end of August 2010 and moved out in March 2011. The rental unit is currently occupied by tenants who moved in on May 01, 2011. The landlord has not yet carried out the repair to the hardwood floors and has filed estimates for the cost of doing so.

The carpet repair was done by the landlord himself in April 2011. The landlord has not filed any evidence to support the cost he incurred. He stated that he spent \$209.00 for the materials and \$14.00 for the tool rental.

The tenant stated that the hardwood floors were old and were deteriorating in certain places. The tenant agreed that he was responsible for the stain on the upper level carpet and the burn mark on the lower level carpet.

The landlord is claiming the following

1.	Average of three estimates to repair hardwood floors	\$2,110.00
2.	Upstairs carpet, labour plus disposal (estimate)	\$385.13
3.	Repair burn to lower carpet (estimate)	\$48.00
	Total	\$2,543.13

Analysis

Section 37 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. I will use this guideline to assess the remainder of the useful life of the hardwood floors. As per this policy, the useful life of hardwood floors is twenty years. The landlord stated that the floors were installed in 1972 but were refinished in 1996. The flooring was 38 years old at the end of the tenancy and has outlived its useful life. By the admission of the landlord, the hardwood was deteriorating in some areas due to weathering. Even though the tenant did cause some damage to the hardwood floors, I find that the flooring had outlived its useful life and needed to be replaced anyway.

Accordingly, the landlord's claim for \$2,110.00 is dismissed.

The landlord stated that he replaced the upstairs carpet at a total cost of \$209.00 for supplies and \$14.00 for the tool rental. The landlord did the work himself and as per the estimate that he provided, the cost of labor is \$117.96.

Pursuant to section 37 of the *Residential Tenancy Policy Guideline*, the useful life of a carpet is ten years. The carpet was replaced in 2002 and at the end of the tenancy the carpet was eight years old and therefore had approximately two years of useful life left. Accordingly, I award the landlord \$68.18 which is the prorated amount of the balance of the useful life of the carpet at the end of the tenancy. I find that the landlord is entitled to \$48.00 for the removal of the burn mark on the carpet on the lower floor.

Overall the landlord has established a claim of \$68.18 for the upper floor carpet plus \$48.00 for the repair to the carpet on the lower floor for a total of \$116.18. Since the landlord's proven entitlement is a small portion of his total claim of \$2,543.13, I find that he is not entitled to the recovery of the filing fee.

Even though the tenant agreed to allow the landlord to retain the entire deposit, upon application, the landlord has established a claim of \$116.18. Therefore, I order that the landlord retain \$116.18 from the security deposit of \$825.00 and interest of \$6.22 in satisfaction of the claim and return the balance of \$715.04 to the tenant within 15 days of receipt of this decision.

Conclusion

I hereby order that the landlord return \$715.04 to the tenant within 15 days of receiving this decision.

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: June 01, 2011.

Residential Tenancy Branch