



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by both the landlord and the tenant.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for overholding and damage to the rental unit; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord testified the tenancy began on October 1, 2007 as a month to month tenancy with a monthly rent of \$566.00 due on the 1st of each month at the end of the tenancy and that a security deposit of \$262.50 was paid. The landlord bought the residential property on July 1, 2009.

The landlord provided a copy of the tenant's notice to end the tenancy dated April 30, 2011 with an effective vacancy date of May 31, 2011. The notice includes a provision that should she need more time to move due to work commitments she would expect the landlord to take an appropriate amount from her security deposit.

The landlord acknowledges agreement to this but that he did want things finished by the time he went on holidays on June 10, 2011. The parties agree the tenant stayed until June 7, 2011 and the landlord claims \$129.50 for the tenant overholding until that date. The tenant does not dispute this amount.

The landlord testified that the tenant cleaned the rental unit very well but that in doing so she left the fridge open; plugged in; and running. He further stated that this burned the motor out and he therefore had to replace the fridge. The landlord stated that due to their location the cost of having someone come to service the fridge we result in costs higher than purchasing a new fridge.

The tenant states that she believes the landlord just wanted to replace the fridge and that it should have been done before her tenancy began. The tenant stated that she hired someone to clean the rental unit for her. She states that the fridge was turned off by turning the dial in the interior of the fridge and that as a result the fridge was not running when she left.

The landlord testified the fridge was about 15 years old and that you cannot turn it off you could only turn it down to level 1 and that when you did this the motor would cut out as the temperature inside the fridge would already be colder than the new setting of 1 but once it got down to that temperature it would start up again. The landlord stated that in recognizing the age of the fridge he is only seeking ½ the cost of the replacement.

The landlord has submitted a copy of a receipt from a department store for the purchase of a fridge in the amount of \$559.93 and the landlord is claiming \$75.00 for the removal and disposal of the old fridge and to install the new fridge.

Analysis

Section 37 of the Act requires a tenant, when vacating a rental unit, to leave the unit reasonably clean and undamaged except for reasonable wear and tear. I accept that both parties agree the unit was clean and undamaged except for the issue of the fridge.

As the tenant had hired someone to clean the rental unit, I am not convinced that she herself actually readied the fridge for the end of the tenancy and I cannot therefore rely on her testimony with regard to how the fridge was left. I therefore accept the landlord's testimony as to the condition of the fridge.

Residential Tenancy Branch Policy Guideline #37 provides a table of useful life expectancies for finishes and products in households. The table states that the useful life for a fridge is 15 years and as such, I find the fridge in the rental unit had reached its useful life limit and the tenant cannot be held responsible for its replacement, regardless of the condition it was left in. I dismiss the portion of the landlord's Application requesting for ½ the cost of the fridge and the delivery charges.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$129.50** comprised of overholding charges. As the landlord was largely unsuccessful in his application, I dismiss his request to recover the filing fee for his Application.

I order the landlord may deduct this amount from the security deposit and interest held in the amount of \$267.44 in satisfaction of this claim leaving a balance of \$137.94 in the security deposit owed to the tenant.

I grant a monetary order to the tenant in the amount of **\$137.94**. This order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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 13, 2011.

Residential Tenancy Branch