



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding North River Bluff Holdings Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD, 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 the landlord and both tenants.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for damage to the rental unit; for cleaning of the rental unit; for all or part of the security deposit and to recover the filing fee from the tenants 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 provided a copy of a tenancy agreement signed by the parties on March 24, 2009 for a 2 year fixed term tenancy beginning on April 1, 2009 that converted to a month to month tenancy on April 1, 2011 for a monthly rent at the end of the tenancy of \$2,050.00 due on the 1st of each month. The tenancy ended on November 30, 2012.

The parties agree the tenants paid a pet damage deposit of \$975.00 and a security deposit of \$975.00 prior to the start of the tenancy. The parties agree the landlord was provided with the tenants' forwarding address in a letter dated March 12, 2013 that the landlord states he received March 19, 2013. The landlord submitted an Application for Dispute Resolution to claim against the deposit on March 28, 2013.

The landlord was uncertain if a move in Condition Inspection Report was completed but did confirm that he completed a walkthrough of the rental unit with the tenant on November 30, 2012. The tenant acknowledged attending the move out inspection but refused to sign anything confirming the condition because she disagreed with the landlord's assessment of the condition.

The landlord has provided into evidence several photographs presented as thumbnails on a sheet of paper and a spreadsheet outlining the hours of work and material costs for both cleaning and repairs to the rental property. The landlord seeks the following compensation:

Description	Amount
Cleaning – 64 hours @ \$20.00 per hour	\$1,280.00
Repair Labour – 70 hours @ \$35 per hour	\$2,450.00
Material costs	\$5,512.50
Less discount	(\$3,250.00)
Total costs	\$5,992.50
Total Claim	\$4,950.00

The landlord claims cleaning costs for general cleaning including wiping down walls and ceilings; failure to remove tin foil from windows; removal foam insulation in various locations; cleaning kitchen appliances; window coverings and light fixtures. The tenants submit that they had cleaned the unit but were unable to reach the higher parts of the house to remove tinfoil and cobwebs. The tenants also submit that they could not clean the ceilings because they were “popcorn” and they could not wipe them clean.

The landlord also seeks as part of his cleaning claim costs for cleaning up the woodpile; debris; pallets and dog excrement from the yard. The tenants submit that the landlord had moved in heavy equipment and dug holes that made the backyard inaccessible prior to the end of the tenancy so they could not get to the back yard.

The landlord’s claim for repairs includes repairs to holes in walls; damage to window frames and french doors; removal of gum from a light fixture; painting; water damage to window sills; removal of tape, stickers and re-painting; damaged screen; repairs to hardwood flooring; replacement of stained carpet; repairs to decking material; repainting and removal of purple and black paint on the garage floor, walls, and doors.

The tenants dispute most of the landlord’s claim for repair costs as they submit that most of the items were existed at the start of the tenancy. The tenants provided testimony that they agreed they had or may have:

1. Painted the garage, including floors; walls; doors; railings purple and black;
2. Contributed to the damage of the decking materials by the repairs they attempted;
3. Cause some damage to the hardwood floor in the living /dining room; and
4. The wine stain in the carpet in one of the bedrooms was caused by wine bottles the tenant had left in the bedroom that she states broke due to the high temperature in the rental unit just after they moved in.

The landlord testified the rental unit was 22 years and that the flooring had been changed approximately 10 years ago.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 37 of the *Act* requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all keys or other means of access that are in the possession and control of the tenant and that allow access to and within the residential property.

Based on the testimony of both parties and the photographic evidence provided by the landlord I am satisfied the tenants failed to leave the rental unit clean as required under Section 37 and as such the landlord has suffered a loss. I accept the landlord's calculations and hourly rate as reasonable compensation to complete the cleaning, including the removal of the exterior garbage and debris.

As to the landlord's claim for damage to the rental unit, I find that since the landlord has provided no evidence of the condition of the rental unit at the start of the tenancy I find the landlord has failed to provide evidence that any damage was caused by the tenants with the exception of the damage the tenants acknowledged in their testimony that resulted during the tenancy.

As such, I find the landlord is entitled compensation for all repainting and paint removal required in the garage; decking repairs; to the refinishing of the hardwood floors and to carpet replacement in the bedroom. I find the values provided by the landlord for this work to be reasonable.

As the colour of the paint in the garage was so extreme I find the landlord is entitled to the full compensation requested for these repairs while the other costs to repair the decking; carpet and hardwood flooring are subject to depreciation according to Residential Tenancy Policy Guideline #40.

As such, for repairs I find the landlord is entitled to the following:

Description	Amount	Depreciation	Total Allowed
Painting and paint removal to garage materials	\$650.00	0%	\$650.00
Painting and paint removal labour – 22.5 hours at \$35.00 per hour	\$787.50	0%	\$787.50
Decking	\$1,750.00	50%	\$875.00
Bedroom carpet replacement	\$600.00	100%	0
Living room/Dining room hardwood flooring refinishing	\$900.00	50%	\$450.00
Total			\$2,762.50

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$4,092.50** comprised of \$1,280.00 cleaning; \$2,762.50 repairs; and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit held in the amount of \$1,950.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$2,142.50**.

This order must be served on the tenants. If the tenants fail to comply with this order the landlord 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: July 8, 2013

Residential Tenancy Branch