



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order for damage to the unit or property; for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement; to retain all or part of the security and pet deposits; and to recover their RTB filing fee.

Both the landlord and tenant attended the teleconference hearing and gave affirmed evidence.

Issue(s) to be Decided

- Is the landlord entitled to a monetary order for damage to the unit and/or property, and/or for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement?
- Given the answer to that question, what should be the disposition of the security and pet deposits?

Background and Evidence

The tenancy agreement signed by the parties on June 1, 2013 indicates the tenancy started on June 1, 2013 and was for a one year fixed term. The tenant was obligated to pay rent of \$985.00 monthly in advance on the first day of the month. She also paid a security deposit of \$492.50 and a pet deposit of \$492.50. The parties agree the tenancy ended effective May 31, 2014.

The landlord claims the following:

Mailbox key (\$10.00) and doorknob (\$17.35)	\$ 27.35	Tenant agrees
Clogged sink	136.50	
Carpet cleaning	70.00	Tenant agrees
Missing light fixture cover	10.00	Tenant agrees
Missing bathroom sink stopper	5.00	Tenant agrees
Oven cleaning	20.00	
Kitchen cabinet paint removal and stain restoration	2,100.00	
Bedroom carpet replacement	270.00	
Living room & hallway carpet replacement	1,120.00	
Bathroom sink damage	20.00	
Kitchen countertop damage	10.00	
Suite door damage	10.00	Tenant agrees
RTB filing fee	50.00	
<i>Total landlord claim:</i>	<i>\$ 3,848.85</i>	

Clogged sink – The landlord provided a plumbing receipt for \$136.50 for unclogging the bathroom drain. The receipt indicates the sink was clogged with hair. The tenant says the drain ran slow from the beginning and so she did not use the sink. I find it unlikely that the tenant did not use the bathroom sink. I accept the landlord's evidence that the tenant is responsible for the \$136.50 repair bill.

Oven cleaning – The landlord provided photos of the oven which show some black marks on the oven floor, sides, and racks. The landlord says they used an oven cleaner to remove a lot of grease that was left behind. The tenant says she cleaned the oven for one to two hours using de-greasing products. I find that, even with the tenant's efforts, further cleaning was required. I find the landlord is entitled to the \$20.00 claim.

Kitchen cabinets – The landlord gave evidence the cabinets are original to the rental unit, which is 39 years old. She says they are solid wood and were stained. Her evidence is that the tenant painted them without permission. The landlord provided a quote for \$2,100.00 for paint removal and re-staining. The tenant agrees she painted the cabinets. She says that, at the start of the tenancy, the cabinets were discoloured and had a thick waxy buildup on the outsides.

Bedroom carpet – The landlord gave evidence that the tenant cut the carpet at the entrance to the bedroom. The landlord estimates the carpet is 7 or 8 years old. She did not provide any documentary evidence as to the cost of replacement, but estimates it to be \$500.00 and claims \$270.00 from the tenant (on the basis that the carpet is about halfway through its useful life). The tenant says the carpet was improperly installed, because the bedroom carpet met the living

room carpet in the doorway threshold without there being any strip to hold down the two edges of the carpets where they met. The carpet edges therefore created a trip hazard, and that is why the tenant cut it.

Living room and hallway carpet – The landlord gave evidence that there are burns and cat scratches in the carpet; she provided photos that show what appear to be either burns or tar on the carpet and some loose fibres. She estimates the carpets are about five years old. She notes the tenant indicated the carpets were in “good” condition on the move-in condition inspection report. The landlord did not provide any documentary evidence as to the cost of replacement, but claims \$1,120.00 from the tenant which is two-thirds of her estimated cost of replacement. The tenant says the carpets were stained at move-in, however the stains could not be seen during the move-in inspection because the carpets were wet. She denies her cats scratched the carpet. She says the carpets were “really old”.

Bathroom sink damage – The landlord provided a photo showing small brown spots on the bathroom sink, which the landlord says was new at the start of tenancy. The landlord thought the tenant’s cat might have scratched the sink; the tenant says it is not possible for cat claws to damage sinks. She says there were rust stains on the sink from the start of tenancy, and notes the landlord has not provided a receipt to prove the sink was new. I agree with the tenant that the marks could not have been caused by cats.

Kitchen countertop – The landlord provided a photo showing scratches to the countertop near the sink, which she attributes to the tenant’s cat. The tenant says the scratches are not from a cat. She says they appear to be knife cuts and were there at the start of her tenancy. I agree with the tenant that the scratches could not have been caused by cats, due to the formation of the scratches. I note that the landlord has attributed various minor damage to the tenant’s cats which is clearly not cat damage. The parties disagree about whether the bathroom sink damage and kitchen countertop damage were there at the start of the tenancy. Given the landlord’s proposition that the damage was caused by cats (where it is clearly not), I find the landlord has not proven the sink and countertop damage is the responsibility of the tenant.

Analysis

The claims the tenant agrees to total \$122.35. The minor claims dealt with above entitle the landlord to a further \$156.50 (clogged sink and oven cleaning).

The kitchen cabinets are about 39 years old. According to Residential Tenancy Policy Guideline 40 “Useful Life of Building Elements”, which is used to provide some consistency among RTB decisions, the useful life of kitchen cabinets is 25 years. In this case, I accept the tenant’s evidence that the kitchen cabinets were discoloured and waxy with age. While the cabinets were at the end of their useful life, there is no evidence that they were not still fully functional as kitchen cabinets. The tenant’s paint has changed the cabinets’ appearance but they remain fully functional. The tenant evidently felt paint would improve the cabinets’

appearance but the landlord disagrees. I accept the landlord's evidence that the tenant did not have permission to paint the cabinets. The landlord intends to have the cabinets refinished, and I find this will result in an improvement (since the original stain was very old). It is reasonable that the tenant pay only a portion of the cost of refinishing, since the tenant should not have to pay for an improvement. I find the tenant is responsible for 25% the cost of refinishing, or \$525.00.

I find the landlord has proven the tenant caused some damage to the bedroom, living room, and hallway carpets, beyond reasonable wear and tear. This damage is the cutting of carpet at the bedroom threshold and the burn or tar stains on the living room and hallway carpets. While the landlord has proven she incurred a loss, she has not proven the cost of replacement and is therefore only entitled to a nominal award for damages. In setting an award, I have considered Residential Tenancy Policy Guideline #40 which sets a useful life of 10 years for rental unit carpet. Considering these factors, I find the landlord is entitled to a nominal award of \$500.00.

The total amount of compensation for the landlord is \$1,303.85. The landlord is also entitled to recover her RTB filing fee of \$50.00, for a total of \$1,353.85. I order that the landlord retain the security deposit of \$492.50 and the pet deposit of \$492.50 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$368.85. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order for \$368.85. The landlord may also retain the security and pet deposits.

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: October 09, 2014

Residential Tenancy Branch

