



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Century 21 Performance Realty & Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order damage to the unit - Section 67; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started on November 1, 2014 and ended on the fixed term date of April 30, 2015. At the outset of the tenancy the Landlord collected \$2,600.00 as a security deposit. The Parties mutually conducted a move-in and move-out inspection. The forwarding address provided by the Tenant at move-out was the disputed rental unit address. The Landlord served the Tenant at this address by mail which is then redirected to another address.

The Tenant states that his copy of the move-out report is different than the copy provided by the Landlord as evidence for the claims and that noted are written into the Landlord's copy that are not present on the Tenant's copy. It is noted that the condition

inspection report copy provided to the RTB only includes the last page of a report and not any of the particulars of the unit.

The Landlord states that the application for dispute resolution was made later than 15 days after the end of the tenancy due to its own error. The Landlord states that the Tenants were returned a portion of the security deposit on May 15, 2015. The amount of \$1,181.27 was provided to the Landlord by the accountant. No copy of that cheque was provided. The Tenant states that the Landlord only returned \$1,131.27 having made a deduction for the \$50.00 filing fee and that this cheque was received by the Tenant on June 5, 2015.

The Landlord states that the Tenants failed to "deep clean" the unit at move-out and claim the costs charged by a cleaning company of \$607.25. The invoice indicates that the cleaning took 17.5 hours for the 3 bedroom, 2 bathroom unit. The Landlord states that the Tenants were told at the outset of the tenancy that they were expected to leave the unit as immaculate as it was provided at the outset. The Landlord states that although photos of the unit were taken none were provided as evidence as the Landlord did not think it was necessary.

The Tenant states that the unit was both cleaned by themselves and a cleaning company recommended by the Landlord. The Tenant states that they paid \$135.00 for 4 hours of cleaning that included wiping out cupboards and appliances. The Tenant states that the Tenant's copy of the move-out condition report does not indicate any problems with the cleanliness of the unit and that the Tenants were told at move-out that all was good.

The Landlord states that the Tenants left the garage full of garbage that had to be hauled out. The Landlord states that this included several boxes and bags of "stuff", boots, and various other "random" items left around. The Landlord claims \$174.00. The Landlord states that the items removed included a truck canopy and that although the Tenant was given opportunity to pick up the canopy this was taken in error to the dump

before the Tenant could pick it up. The Tenant states that this “stuff” was left in the unit by the Landlord at the outset of the tenancy. The Tenant states that this property was scattered everywhere and that any items that belonged to the Tenant was removed. The Tenant states that the only thing that was left in the garage was the sweeping of the floor. The Tenant states that the loss of the canopy by the Landlord more than makes up for the Tenant’s failure to sweep the floor.

The Landlord states that none of the carpet was cleaned by the Tenant can claimed \$283.50 for the cost of this cleaning. The Landlord states that at the time of the inspection the Tenant told the Landlord that the carpets had been cleaned and that a receipt would be provided to the Landlord. The Landlord states that no receipt was provided. The Tenant states that the carpets were left reasonably clean and did not need any cleaning. The Tenant states that the move-out report indicates that nothing needed cleaning.

The Landlord states that the Tenants broke the built in vacuum hose as it was not broken at the outset of the tenancy. The Landlord states that the system is maybe 10 years old and claims \$100.74 as the cost to replace the hose. The Tenant states that the system is at least 25 years old, that the Landlord was notified by the Tenants when the beater part of the vacuum broke. The Tenant states that no split was noticed during the tenancy and if it had of been noticed it would have been reported to the Landlord. The Tenant states that they did not thing to cause this split and that it occurred as a result of wear and tear over the years.

The Landlord states that the master bedroom bedframe was left cracked by the Tenants. The Landlord states that the bedframe was in good condition at move-in and that the age of the bedframe is unknown. The Landlord states that the curtain rod was left hanging off the wall and that all the brackets and rod had to be replaced. The Landlord states that the frame and curtain rod was repaired by the owner who claimed \$200.00 for the parts and labour. The Landlord provided an email stating this amount. The Tenant states that the frame was broken and propped up on tiles. The Tenant

states that there was no damage to any curtain rod. The Tenant does not believe that the amount claimed is reasonable for a piece of missing spruce on the frame.

Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. As the Tenant provided the rental unit address as a forwarding address and despite the Landlord being able to serve the Tenant through this address, I find that this is not a forwarding address as contemplated by the Act and that the Landlord has therefore not to date received this address. As a result I find that the Landlord made its application in accordance with the Act and is not required to pay the Tenant double the security deposit.

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Section 5 of the Act provides that landlords and tenants may not avoid or contract out of this Act or the regulations and that any attempt to avoid or contract out of this Act or the regulations is of no effect. I remind the Landlord that the standard to be met is that contained in the Act and that standard in relation to cleaning is reasonably clean. A higher standard cannot be required by the tenancy agreement and if a tenancy agreement does require such a higher standard this requirement would be of no effect.

Considering that there are no photos of an unclean unit, given that the Tenant copy of the move-out report and the copy of this report provided to the RTB do not indicate any uncleanliness, I find that the Tenant's evidence of cleaning is preferable. In preferring the Tenant's evidence I also consider the incredulous amount being claimed by the Landlord for the cost of cleaning the unit. This does not indicate reliable evidence of

cost to achieve reasonable cleanliness and more likely represents cleanliness to an immaculate standard. I also accept the Tenant's persuasive evidence that the Landlord's own belongings were left in the garage and I dismiss the claim for costs to remove any items from the garage. As the move-out report does not indicate any problem with the carpet, regardless of whether the Tenant cleaned the carpet or not, and considering the lack of photos showing an unclean carpet and the short term of the tenancy, I find that the Landlord has not substantiated that the Tenants did not leave the carpets reasonably clean.

Considering that the Tenant did not deny causing the bedframe to crack, I find that the Landlord has substantiated that the Tenant caused the frame to be damaged. Given the lack of evidence to support a claim for a broken rod and considering the believable evidence of the Tenant, I find that the Landlord has not substantiated a claim in relation to the curtain rod. As there is no invoice setting out the hourly rate, hours, or materials costs or distinguishing between the costs for repairing the bed and replacing or repairing the curtain rod, I find that the Landlord has failed to establish the costs claimed for the repair to the bedframe and is only entitled to a nominal amount of **\$100.00** for the labour and supplies to repair the bed.

Given the Landlord's evidence of age of the vacuum system and considering the undisputed evidence that other parts of the system broke during the tenancy I accept that any damage to the hose was more likely caused by wear and tear over many years and I dismiss the claim for costs to replace the hose.

As the Landlord's application has met with limited success I decline to award recovery of the filing fee. Considering that the Tenant provided no evidence to support that the amount returned by the Landlord was less than claimed by the Landlord and considering that the Landlord's accounting source for the amount returned to the Tenant can be considered reasonably reliable, I accept the Landlord's evidence that **\$1,181.27** was sent to the Tenant leaving the Landlord holding the remaining security deposit

amount of **\$1,418.73** plus zero interest. Deducting the Landlord's entitlement of **\$100.00** from this amount leaves **\$1,318.73** to be returned to the Tenant forthwith.

Conclusion

I **Order** the Landlord to retain **\$100.00** from the security deposit plus interest of **\$1,418.73** in full satisfaction of the claim.

I **Grant** the Tenant an order under Section 67 of the Act for **\$1,318.73**. If necessary, this order may be filed in the Small Claims Court and 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: November 06, 2015

Residential Tenancy Branch

