



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WALL FINANCIAL CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MND MNR MNSD MNDC FF

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution seeking remedy under the *Residential Tenancy Act* (the "*Act*"). The landlord applied for a monetary order for damage to the unit, site or property, for unpaid rent or utilities, for authority to keep all or part of the security deposit, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the cost of the filing fee.

Two agents for the landlord (the "agents") appeared at the teleconference hearing and gave affirmed testimony. The agents were advised of the hearing process and were given the opportunity to ask questions about the hearing process during the hearing. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), the Application for Dispute Resolution (the "Application") and documentary evidence was considered. The agents testified that the Notice of Hearing, Application and first documentary evidence package were served on the tenant by registered mail on March 18, 2014 to the service address for the tenant noted on the cover page of a previous Decision dated March 14, 2014, the file number of which has been referenced on the cover page of this Decision for ease of reference. A registered mail tracking number was submitted in evidence. According to the Canada Post online registered mail tracking website, the tenant successfully signed for and accepted the registered mail package on March 25, 2014. Based on the above, I find the tenant was served with the Notice of Hearing, Application and first documentary evidence package on March 25, 2014, when the tenant signed for and accepted the registered mail package. The agents stated that they served two additional documentary evidence packages on the tenant, the first mailed via regular mail on May 28, 2014, and the second package on May 30, 2014, also by regular mail. Documents served by mail are deemed served five days after they are mailed pursuant to section 90 of the *Act*. Therefore, based on the above, I deem the tenant was served with the second documentary evidence package as of June 2, 2014, and I deem the tenant was served with the third documentary evidence package as of June 4, 2014.

Preliminary and Procedural Matter

The agents confirmed that the tenant's security deposit and unpaid rent have already been claimed for and awarded to the landlord in the previous Decision noted above. Therefore, the agents requested to withdraw their request to retain the tenant's security and for unpaid rent, as those matters have already been decided upon in the Decision dated March 14, 2014. Give the above, I have not considered those portions of the landlord's application.

Issues to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?

Background and Evidence

The undisputed evidence provided by the agents is that a fixed term tenancy agreement began on May 15, 2011 and reverted to a periodic, month to month tenancy after May 31, 2012. The agents stated that the tenant abandoned the rental unit on February 27, 2014.

The landlord has claimed a monetary amount of \$806.40 comprised of the following:

Item #	Description	Amount
1	Carpet cleaning	\$95.40
2	Drape replacement	\$105.00
3	Painting and wall repair	\$252.00
4	Garbage removal	\$84.00
5	Suite cleaning	\$220.00
6	Filing fee	\$50.00
TOTAL		\$806.40

Item #1 is for \$95.40 for carpet cleaning. The agents referred to the outgoing condition inspection report submitted in evidence to support that the carpets were dirty when the tenant vacated the rental unit. The agents stated that the tenant did not clean the carpets at the end of the tenancy before he abandoned the rental unit. The agents stated that they completed the outgoing condition inspection report as the tenant abandoned the rental unit and had not provided a forwarding address in writing to the landlord. The landlord submitted a receipt in the amount of \$95.40 for carpet cleaning dated April 19, 2014 and includes the unit number of the rental unit.

Item #2 is for \$105.00 for drape replacement. The agents submitted a receipt in the amount of \$105.00 and referred to the outgoing condition inspection report which indicates that the drapes were "missing". The receipt submitted by the landlord is dated March 18, 2014.

Item #3 is for \$252.00 for painting and wall repair. The agents referred to the outgoing condition inspection report which indicates that painting and wall repairs were required. The agents testified that the tenant repainted three walls and the kitchen cabinets without permission with a blue paint colour that the landlord had to repaint when the tenant abandoned the rental unit. The agents testified that the landlord is only claiming for the cost to repaint the three walls and the kitchen cabinets as the paint was already two and a half years old at the start of the tenancy. The landlord submitted a receipt in the amount of \$485.00 before taxes, however, is only claiming \$252.00 having considered depreciation of the interior paint that was two and a half years old.

Item # 4 is for \$84.00 for garbage removal. The agents referred to the photo evidence submitted by the landlord showing that the tenant left a couch, vacuum, paint cans, kitchen items, and a bed frame in the rental unit when he abandoned the rental unit. The landlord submitted a receipt in the amount of \$84.00 for "junk removal" dated March 3, 2014.

Item #5 is for \$220.00 for suite cleaning. The agents referred to the outgoing condition inspection report which indicates "dirty" and to the photo evidence which the agents testified showed a dirty rental unit at the end of the tenancy. The agents referred to a purchase order submitted in evidence for \$220.00 for suite cleaning. The agents stated that they cleaned the rental and unit and that they "did not enjoy it as it was dirty". The agents testified that they spent a total of 10 hours cleaning the suite at \$22.00 per hour which includes two people cleaning the rental unit.

Item #6 is for \$50.00 for the filing fee which will be addressed later in this Decision.

Analysis

Based on the documentary evidence and the undisputed testimony of the agents, and on the balance of probabilities, I find the following.

Test for damages or loss

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did what was reasonable to minimize the damage or loss.

Item #1 – The landlord has claimed \$95.40 for carpet cleaning. The agents referred to the outgoing condition inspection report submitted in evidence to support that the carpets were dirty when the tenant vacated the rental unit. The agents stated that the tenant did not clean the carpets at the end of the tenancy before he abandoned the rental unit. The agents stated that they completed the outgoing condition inspection report as the tenant abandoned the rental unit and had not provided a forwarding address in writing to the landlord. The landlord submitted a receipt in the amount of \$95.40 for carpet cleaning dated April 19, 2014 and includes the unit number of the rental unit. Based on the above, I find the landlord has met the burden of proof for this portion of their claim and is entitled to **\$95.40** in compensation for carpet cleaning costs.

Item #2 – The landlord has claimed \$105.00 for drape replacement. The agents submitted a receipt in the amount of \$105.00 and referred to the outgoing condition inspection report which indicates that the drapes were “missing”. The receipt submitted by the landlord is dated March 18, 2014. Based on the above, I find the landlord has met the burden of proof for this portion of their claim and is entitled to **\$105.00** in compensation for drape replacement.

Item #3 – The landlord has claimed \$252.00 for painting and wall repair. The agents referred to the outgoing condition inspection report which indicates that painting and wall repairs were required. The agents testified that the tenant repainted three walls and the kitchen cabinets without permission with a blue paint colour that the landlord had to repaint when the tenant abandoned the rental unit. The agents testified that the landlord is only claiming for the cost to repaint the three walls and the kitchen cabinets as the paint was already two and a half years old at the start of the tenancy. The landlord submitted a receipt in the amount of \$485.00 before taxes, however, is only claiming \$252.00 having considered depreciation of the paint that was two and a half years old.

The useful lifespan of interior paint is four years based on Residential Tenancy Branch Policy Guideline #40 – Useful Life of Building Elements (“RTB Policy Guideline #40”). Given the above and based on the depreciated value taken into account in the amount being claimed for this portion of their claim and considering that the total amount of \$485.00 listed on the receipt was before taxes were added, I find that the landlord has met the burden of proof and that the amount being claimed is reasonable and consistent with RTB Policy Guideline #40. Therefore, I **grant** the landlord **\$252.00** as claimed for the cost of painting and wall repair.

Item # 4 – The landlord has claimed \$84.00 for garbage removal. I find the photo evidence submitted by the landlord supports that the tenant left a couch, vacuum, paint cans, kitchen items, and a bed frame in the rental unit when he abandoned the rental unit. Therefore, after taking into account the receipt in the amount of \$84.00 for “junk removal” dated March 3, 2014, I find the landlord has met the burden of proof to support this portion of their claim. As a result, I **grant** the landlord **\$84.00** as claimed for the cost of garbage removal.

Item #5 – The landlord has claimed \$220.00 for suite cleaning. Section 37 of the *Act* applies and states:

Leaving the rental unit at the end of a tenancy

37 (1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.

(2) **When a tenant vacates a rental unit, the tenant must**

(a) **leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear**, and

(b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

[my emphasis added]

Based on the above, the outgoing condition inspection report and the photo evidence submitted, I find the tenants breached section 37 of the *Act* by failing to leave the rental unit reasonably clean when they vacated the rental unit. I have considered the purchase order submitted in evidence for \$220.00 for suite cleaning and the agents' undisputed testimony that they spent a total of 10 hours cleaning the suite at \$22.00 per hour. Therefore, I find the landlord has met the burden of proof for this portion of their claim and **I grant** the landlord **\$220.00** as claimed for the cost of suite cleaning.

Item #6 – This item relates to the landlord's request to recover the cost of the \$50.00 for the filing fee. As the landlord's application had merit and in accordance with section 72 of the *Act*, I find the landlord is entitled to recover the cost of their filing fee. Therefore, **I grant** the landlord **\$50.00** as claimed for recovery of the filing fee.

Monetary Order – I find that the landlord has established a total monetary claim in the amount of **\$806.40** as follows:

Item #	Description	Amount
1	Carpet cleaning	\$95.40
2	Drape replacement	\$105.00
3	Painting and wall repair	\$252.00
4	Garbage removal	\$84.00
5	Suite cleaning	\$220.00
6	Filing fee	\$50.00
TOTAL		\$806.40

I grant the landlord a monetary order pursuant to section 67 of the *Act* for the amount owing by the tenant to the landlord in the amount of **\$806.40**. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The landlord's application had merit. The landlord has been granted a monetary order pursuant to section 67 of the *Act* for the amount owing by the tenant to the landlord in the amount of \$806.40. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 21, 2014

Residential Tenancy Branch

