



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of a monetary order requested pursuant to section 38; and
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1342 in order to enable the tenant to connect with this teleconference hearing scheduled for 1330. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord's agent is the site manager for the residential property.

The agent testified that the landlord served the tenant with the dispute resolution package (including all evidence before me) on 13 November 2014 by registered mail sent to the tenant's forwarding address. The landlord provided me with a Canada Post tracking number that showed the same. On the basis of this evidence, I am satisfied that the tenant was deemed served with the dispute resolution package pursuant to sections 89 and 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of a monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the agent, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around it are set out below.

This tenancy began 21 October 2013. The parties entered into a written tenancy agreement on 16 October 2013. That tenancy agreement set out that monthly rent of \$950.00 was due on the first. The landlord collected a security deposit in the amount of \$475.00 at the beginning of the tenancy.

The landlord and tenant completed a condition move-in inspection report on 16 October 2013. That report is unremarkable. The report notes that the oven and refrigerator are new. The report is signed by the tenant indicating that the tenant agreed with the content of the report.

The landlord and tenant completed a condition move-out inspection report on 31 October 2014. That report notes that various parts of the rental unit are dirty including the parts of the kitchen, the oven, the refrigerator, the light fixtures, and the windows. The tenant signed the statement that indicates that he disagreed with the condition move out inspection report:

Oven + Fridge were cleaned better than on move-in, cleaning charges were 4 hours for approx. 20 minutes of work. Unreasonable.

The agent provided testimony that was consistent with the condition move-out inspection report. The landlord provided photographs that are also consistent with the condition move-out inspection report.

The agent testified that cleaning services are provided by another company. That company provides a minimum cleaning charge of four hours at an hourly rate of \$45.00. I was provided with an invoice dated 31 October 2014 in respect of this charge. The agent testified that the tenant was advised of this rate and terms at the beginning and end of the tenancy. The agent testified that the cleaning took longer than twenty minutes and that the charges were reasonable.

In the first week of November, the landlord returned \$295.00 of the tenant's security deposit to him. The landlord continues to hold \$180.00 from the tenant's security deposit.

Analysis

Subsection 32(2) of the Act requires a tenant to maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. *Residential Tenancy Policy Guideline, "1. Landlord & Tenant – Responsibility for Residential Premises"* (Guideline 1) states:

The tenant is generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard. ...

In particular, Guideline 1 sets out the responsibility for cleaning windows at the end of a tenancy and certain appliances:

2. The tenant is responsible for cleaning the inside windows and tracks during, and at the end of the tenancy, including removing mould. The tenant is responsible for cleaning the inside and outside of the balcony doors, windows and tracks during, and at the end of the tenancy. The landlord is responsible for cleaning the outside of the windows, at reasonable intervals.
...
1. At the end of the tenancy the tenant must clean the stove top, elements and oven, defrost and clean the refrigerator, wipe out the inside of the dishwasher.

The agent provided uncontested and sworn testimony that the tenant left the window sills, oven, stove, and refrigerator in a condition that did not comply with the tenant's obligations pursuant to subsection 32(2) of the Act. The landlord provided me with photographic evidence that supports the agent's testimony. I find that the landlord has shown that the tenant breached the Act by failing to return the rental unit to the landlord in state that complied with the Act. By failing to meet this standard, the tenant caused the landlord to incur certain costs. The agent has provided sworn and uncontested testimony that these costs were reasonable. On the basis of this sworn and uncontested testimony I accept that the landlord has mitigated its losses. The landlord has proven its entitlement to \$180.00 in compensation from the tenant. The landlord is entitled to retain this amount from the tenant's security deposit.

As the landlord has been successful in this application, it is entitled to recover its filing fee for this application from the tenant.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$50.00 under the following terms:

Item	Amount
Cleaning Costs	\$180.00
Offset Security Deposit Amount	-180.00
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$50.00

The landlord is provided with this order in the above terms and the tenant(s) must be served with this order as soon as possible. Should the tenant(s) fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial 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 subsection 9.1(1) of the Act.

Dated: June 24, 2015

Residential Tenancy Branch

