



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

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 and pet damage deposits in satisfaction of the monetary order requested, and for authorization to recover the filing fee for this application.

The landlord's original application, filed December 14, 2016, sought an order of possession based on a mutual agreement to end tenancy. The tenant subsequently vacated the rental unit. The landlord amended her application on December 23, 2016 to withdraw the request for an order of possession and add the relief now sought.

The tenant did not attend this hearing. The landlord attended and was given a full opportunity to be heard, to present affirmed testimony and documentary evidence, to make submissions and to call witnesses.

As the tenant did not attend, service of the amended application, notice of hearing, and supporting evidence was considered. The landlord testified that the tenant was served with these materials at the forwarding address that she had provided by registered mail sent December 23, 2016 but that the tenant did not pick up the registered mail. The landlord provided a Canada Post customer receipt with a tracking number. In accordance with sections 89 and 90 of the Act, I find that the tenant was deemed served with the notice, amended application, and evidence package on December 28, 2016, five days after the registered mailing.

Issue(s) to be Decided

Is the landlord entitled to retain some or all of the security and pet deposits based on the condition of the rental unit?

Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

The landlord provided undisputed evidence at this hearing, as the tenant did not appear.

A copy of the residential tenancy agreement signed by the landlord and two tenants was submitted in evidence. This tenancy began on August 2, 2016, for a one year fixed term, after which the tenancy could continue on a month to month basis. Monthly rent of \$2,100.00 was due on the first day of the month. Certain furnishings were included in the rent, including a desk, double bed, sofa, coffee table, dinner table, and chairs.

A security deposit of \$1,050.00 and a pet deposit in the same amount were paid at the beginning of the tenancy. The landlord testified that another tenant, who is not named in this application, vacated earlier, and that half of the total deposit had been returned to her. The landlord continues to hold \$1,050.00.

The tenancy agreement records two key fob deposits at \$75.00 each and two visitor parking passes at \$50.00 each. This section is initialled by both tenants. The landlord testified that the tenants were not charged additional deposits for these items outside of the security deposit, and that the tenant named in this dispute had not returned either the key fob or the parking pass.

She also testified that she provided the tenant with two opportunities to participate in the condition inspection report upon move out. The first she sent by text. She then sent a notice of final opportunity by registered mail to the forwarding address provided by the tenant, but the notice was not picked up. The landlord then conducted the condition inspection report without the tenant.

In addition to the replacement costs for the fob and the parking pass, the landlord claims for the following:

1. Carpet cleaning: \$140.80

The landlord provided photographs of the carpet in the tenant's bedroom, which appeared stained and was also covered with a substantial amount of hair. She also provided a quote from a carpet cleaning company in support of the amount claimed. She testified that the carpet is 11 years old. The carpet cleaning claim is only for the carpets in the tenant's bedroom.

2. Cleaning service: \$71.40

The landlord provided photographs of the desk and the carpet in the tenant's bedroom, which both had some bits of paper and other small debris on them. There was a small

garbage bag or bin left in the bedroom closet. The landlord also provided a quote for 3 hours of cleaning by a professional cleaning service in support of the amount claimed but stated that she ended up cleaning the bedroom herself. The claim for cleaning was only for the tenant's bedroom.

3. Rekeying lock: \$46.20

The landlord testified that she was required to rekey the front door because the tenant did not return the key. She provided a quote from a locksmith in support of her claim, but stated that in actual fact the service, which was done after she submitted her application, had cost \$60.00

4. Replacing damaged bed frame: \$290.10

The landlord provided photographs of a dark wood bedframe that had been substantially scratched on one side. She testified that the frame had to be replaced because the damage had been done by the tenant's cat and the area was rough and could injure a person. She provided a copy of the listing for the same bedframe in support of the amount claimed. She stated that the bedframe was two or three years old.

5. Replacing damaged mattress: \$222.90

The landlord provided photographs of a mattress that had been stained in several places. She testified that this was urine and that she was unable to clean the mattress of the smell. She provided a copy of the listing for the same mattress in support of the amount claimed. She stated that the mattress had been replaced immediately before the tenancy at issue began.

The landlord also gave evidence that she spent approximately \$50.00 disposing of the bed frame and mattress. However, I have not considered this claim as it was not included in the landlord's application.

Analysis

I have reviewed all documentary evidence and have heard the undisputed evidence of the landlord. Based on the landlord's evidence and s. 37 of the Act, which requires that a vacating tenant leave the rental unit "reasonably clean" and "undamaged except for normal wear and tear," I make the awards set out below.

1. Carpet cleaning

A tenant is required to leave the rental unit in reasonably clean condition, and the photographs in evidence suggest the carpet was both stained and covered in hair. Although they were older carpets, they should have been professionally cleaned when the tenant vacated. Accordingly, I award the cost of the carpet cleaning.

2. Cleaning service

I am satisfied based on the photographs that other than the carpets the remainder of the space was reasonably clean. The landlord has testified that she cleaned it herself, but did not advise how long it took her. I do not make any award for this as I do not consider cleaning the bedroom would have required a substantial amount of time or energy.

3. Rekeying lock

Section 25 of the Act states that at the request of a new tenant the landlord must rekey the locks and assume the cost of doing so. The landlord did not address whether the new tenants had asked her to do this. It is something that she may have been required to do regardless of whether the named tenant returned the key. Accordingly, I award half of the actual cost.

4. Replacing damaged bed frame

I accept that the tenant's cat damaged the bedframe. Policy Guideline #40 suggests that furniture has a useful life of 10 years. The landlord testified that the bed frame was two or three years old. Accordingly, I award 70% of the amount claimed.

5. Replacing damaged mattress

I accept that the tenant's cat damaged the mattress. The landlord has testified that the mattress was new. I award the value of the mattress as claimed.

As the landlord has been substantially successful in this application, I find that she is entitled to recover the \$100.00 filing fee from the tenant.

In summary, I award the landlord **\$830.95**, calculated as follows:

Carpet cleaning	\$140.80
-----------------	----------

Cleaning	None
Rekeying lock	\$30.00
Replacing damaged bed frame	\$232.08 (attributable to the tenant's pet)
Replacing damaged mattress	\$203.07 (attributable to the tenant's pet)
Fob key	\$75.00
Parking pass	\$50.00
Filing fee	\$100.00
Total	

Section 38(7) provides that if a landlord is entitled to retain an amount as a result of an order such as this one, the pet damage deposit may only be used for damage caused by a pet. Although it will not affect the balance that the landlord is required to refund to the tenant in this case, the landlord will here be retaining \$435.15 of the pet deposit, and \$295.80 of the security deposit.

In accordance with sections 38 and 72 of the Act, I allow the landlord to retain the total amount of **\$830.95** from the \$1,050.00 currently held by the landlord in full satisfaction of this monetary award in the landlords' favour.

Conclusion

The landlord's application is allowed. I issue a monetary award in the landlord's favour in the amount of **\$830.95** and authorize her to retain that amount from the security and pets deposits she currently holds.

I make a monetary order in the tenant's favour for the balance owing in the amount of **\$219.05**.

Dated: January 27, 2017

Residential Tenancy Branch