



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for a monetary order for damages to the unit, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee from the tenant.

Both parties appeared, gave affirmed testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Are the landlords entitled to monetary compensation for damages?
Are the landlords entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on June 1, 2014. Rent in the amount of \$750.00 was payable on the first of each month. The tenant paid a security deposit of \$375.00 and a pet damage deposit of \$375.00. The tenancy ended on January 24, 2017.

The parties agreed a move-in and move-out condition inspection report was not completed.

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The landlords claim as follows:

a.	Flooring	\$ 525.00
b.	Casing & Baseboard	\$ 200.00
c.	Front door, Bathroom Door	\$ 300.00
d.	Wall repairs and paint	\$ 325.00
e.	Fridge dents	\$ 100.00
f.	Filing fee	\$ 100.00
	Total claimed	\$1,550.00

The landlords testified that they did periodic walk through and it was hard to see the damage was beneath the bed. The landlords stated that there was damage to the laminate flooring, which they had to remove the remove and replace the panels. The landlords seek to recover the amount of \$525.00.

The landlords testified that the tenant caused damage to the window casing in the bedroom and the baseboard in the kitchen. The landlords seek to recover the amount of \$200.00.

The landlords testified that the tenant caused damage to the front door as there a dent in the door and there was a hole in the bathroom door. The landlords seek to recover the amount of \$300.00.

The landlords testified that the tenant chips the paint on the wall, which had to be repaired and painted. The landlords seek to recover the amount of \$325.00.

The landlords testified that the fridge door was also dented. The landlords seek to recover the amount of \$100.00.

Filed in evidence for the landlords is a USB, with photographs of the floor, minor scratching to a window casing and baseboard, dented front and bathroom door and a small chip in the wall.

The tenant testified that the landlords are making up a story to keep their deposits. The tenant stated that the landlords did not do a move-in or move-out condition inspection report.

The tenant testified the rental unit was in the same condition as when they moved in and they took extremely good care of the unit. The tenant denied they caused any damages to the floor, doors, window casing, baseboard, or walls. The tenant stated there were no dents in the fridge.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlords have the burden of proof to prove their claim.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Section 7(1) of the Act states that if a landlords or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlords or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Under section 37 of the Act, the tenant is required to return the rental unit to the landlords(s) reasonably clean and undamaged, except for reasonable wear and tear. Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

In this case, I find the landlords have failed to provide sufficient evidence to support their claim. While the landlords provided a USB of some photographs at the end of the tenancy that they alleged was damage caused by the tenant; the tenant deny they caused these damages and indicated that they were there when their tenancy commenced.

Further, the text messages the landlords submitted on the USB are not evidence that these damages were not pre-existing. The landlords provided no credible evidence of the condition of the rental unit at the start of the tenancy. Therefore, I dismiss the landlords' application.

As I have dismissed the landlords' application, I find the landlords have no authority under the Act to retain any portion of the security deposit or pet damage deposit. Therefore, I Order the landlords to return those deposits to the tenant immediately.

Should the landlords fail to comply with my order, I grant the tenant a formal monetary Order in the amount of \$750.00. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlords' application is dismissed. The tenant is granted a monetary order for the return of their deposits, should the landlords fail to comply with my Order.

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: July 20, 2017

Residential Tenancy Branch