



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MND MNSD MNDC FF

Introduction

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

- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The landlord's agent, SC, testified on behalf of the landlord in this hearing and was given full authority to do so by the landlord. Both parties were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The tenants confirmed receipt of the landlord's application for dispute resolution hearing package ("Application") and evidence. In accordance with sections 88 and 89 of the Act, I find the tenants were duly served with the landlord's Application and evidence. The tenants did not submit any written evidence for this hearing.

Issues to be Decided

Is the landlord entitled to a monetary award for damage and losses arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested?

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

Background and Evidence

This fixed-term tenancy began on February 1, 2016, with monthly rent set at \$1,370.00. The landlord still holds a \$685.00 security deposit. The tenants moved out at the end of this tenancy on January 31, 2017. Both parties agreed that the tenants provided a forwarding address to the landlord.

The landlord is seeking a Monetary Order for damage as outlined in the table below:

Item	Amount
Quote for replacing laminate flooring	\$3,150.00
Cleaning	556.50
Filing Fee	100.00
Less Security Deposit	-685.00
Less Fob paid for by tenants	-20.00
Total Monetary Order Requested	\$3,101.50

The tenants agreed to pay \$556.50 for the cleaning, but dispute the cost of replacing the damaged laminate flooring. The landlord testified that both move in and move out inspections were done, and the 2 year old apartment was in “good condition” at the beginning of the tenancy. The landlord obtained a quotation, which was included in their evidence, for replacement of flooring for the entire apartment as the damage left by the tenants was in different areas, and in different rooms. The landlord testified that there appears to be water damage to the flooring in the living and dining room, and submitted colour photos to support their claim.

The tenants admitted that the damage that they left was limited to only a few areas, and felt they should not be responsible for replacement of the laminate for the entire apartment. The landlord responded that the quote they obtained was for the same grade as the current laminate, and that it was not possible to replace the laminate by piece. The quote the landlord submitted was for site preparation, removal of existing laminate flooring, baseboard, and trims, 480 square feet of laminate flooring plus installation, re-installation of the baseboard and door trims, and disposal and cleaning.

Analysis

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

Section 37(2)(a) of the *Act* stipulates 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. I find that the landlord complied with sections 23 and 35 of the *Act* by performing condition inspection reports for both the move-in and move-out.

As the tenants agreed to pay for the cleaning portion of the landlord's monetary claim, I find the landlord is entitled to \$556.50 for the cleaning costs for this tenancy.

The landlord also made a monetary claim for the damaged laminate, which the tenants admitted was damaged. The landlord supported their claim with on quotation for \$3,000.00 plus GST, and photos of the flooring in their evidence. The tenants dispute the landlord's monetary claim, as they feel that it was not necessary to replace the flooring for the entire apartment.

The landlord submitted only one quotation for replacement of the laminate flooring. The landlord did not provide any witness testimony, quotations, or written evidence of any kind to support that the laminate could not be repaired instead of replaced. In the absence of these items, I am not satisfied that the landlord had made adequate effort to mitigate the tenants' exposure to the landlord's monetary loss as is required by section 7(2) of the *Act*. On this basis I find that the landlord is not entitled to the monetary claim requested for damage to the laminate flooring as the landlord did not establish that there was sufficient damage to justify replacing the entire laminate flooring. I therefore allow a nominal award of \$300.00 for the damage caused by the tenants.

I find that the landlord's Application has merit and that the landlord is entitled to recover the fee for filing this Application.

In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenants' security deposit plus applicable interest in partial satisfaction of the monetary claim. Over the period of this tenancy, no interest is payable on the security deposit.

Conclusion

I issue a Monetary Order in the amount of \$251.50 in the landlord's favour under the following terms which allows the landlord to retain the security deposit in satisfaction of the monetary claim for damages, plus recover the \$100.00 filing fee for this application.

Item	Amount
Nominal Award for Damage to the Laminate Flooring	\$300.00
Cleaning	556.50
Filing Fee	100.00
Less Security Deposit	-685.00
Less Fob paid for by tenants	-20.00
Total Monetary Order Requested	\$251.50

The landlord is provided with this Order in the above terms and the tenant(s) must be served with a copy of this Order as soon as possible. Should the tenants 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: August 11, 2017

Residential Tenancy Branch