



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 was convened in response to applications by the landlords and the tenants.

The landlords' application is seeking orders as follows:

1. For a monetary order for damages;
2. To keep the security deposit and pet damage deposit (the "Deposits"); and
3. To recover the cost of filing the application.

The tenants' application is seeking orders as follows:

1. Return all or part of the Deposits; and
2. To recover the cost of filing the application.

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 Deposits in partial satisfaction of the claim?

Are the tenants entitled to the return of double their Deposits?

Background and Evidence

The tenancy began on October 1, 2016. Rent in the amount of \$1,600.00, was payable on the first of each month. The tenants paid a security deposit of \$1,600.00 (\$800.00

holding fee) and a pet damage deposit of \$800.00. The tenancy ended on March 30, 2017. The parties agreed that the \$800.00 holding fee was returned to the tenants.

The landlords were cautioned during the hearing that they are not entitled to receive or hold a holding fee; this is a violation of the Act. The landlords must ensure this violation of the Act is not repeated.

The parties agreed a move-in and move-out condition inspection report was completed. Filed in evidence is a copy of the reports.

The tenants indicated the landlords made changes to the report and as they were not given a copy at the time it was completed have no way to defend these changes.

Landlords' application

The landlords claim as follows:

a.	Unpaid utilities	\$ 255.05
b.	Locksmith	\$ 117.81
c.	Cleaning	\$1,069.92
d.	Filing fee	\$ 100.00
	Total claimed	\$1,542.78

Unpaid utilities

The male tenant agreed that they owed the unpaid utilities in the amount of \$255.05.

Locks

The landlords testified that the tenants failed to return the gate key and the two keys that were provided for the garage at the start of the tenancy. The landlords seek to recover the cost of the gate key and the locksmith fee in the total amount of \$117.81.

The tenants testified that the lock was broken on the gate. The tenants stated that they returned one key for the garage.

Cleaning

The landlords testified that the tenants did not clean the carpet or the sofa at the end of the tenancy. The landlords seek to recover the amount for cleaning these items in the amount of \$308.70. Filed in evidence is a receipt for cleaning.

The landlords testified that the tenants failed to clean the stove element pans and they had them replaced. The landlords seek to recover the amount of \$55.96.

The landlords testified that the tenants did not clean the stove and that it took them 2 days to clean.

I the Arbitrator, questioned the landlords as 2 days appears to be unreasonable based on the photographs submitted by the landlords. The landlord recanted and stated 3 hours each day.

The landlords testified that the tenants failed to clean the sheers at the end of the tenancy and seek to recover the cost of cleaning in the amount of \$20.00.

The landlord testified that the tenants did not clean the rental unit. The landlords seek to recover the cost of the cleaning and supplies in the total amount of \$567.27.

The female tenant testified that they have a very good vacuum cleaner. The tenants acknowledge they did not have the carpet shampooed at the end of the tenancy. The tenant acknowledged that they had a pet.

The tenants testified that the elements pans were new when their tenancy started. The tenants stated that the landlord rather throw the pans out, rather than clean them. The tenants stated that they are not responsible for the landlords' personal choices.

The tenants testified that they sprayed the oven with oven cleaner and they thought it was sufficiently cleaned.

The tenants testified that they were only there for six months and the sheer were in the same condition as provided.

The tenants testified that they cleaned the rental unit. The tenants stated the move-out inspection was altered to add things such as the words "extreme" and other items were added to the portion for which the tenants are responsible.

Tenants' application

The tenants claim as follows:

a.	Double the Deposits	\$3,600.00
b.	Filing fee	\$ 100.00
	Total claimed	\$3,700.00

The tenants testified that they provided their forwarding address in a text message. The tenants stated that the landlords should have been aware of this address, as they have used it before.

The landlords testified that the tenants never provided their forwarding address requesting the return of their security deposit. The landlords stated this address was found at a top of a document.

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 each party has the burden of proof to prove their respective 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 landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord 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.

Landlords' application

Unpaid utilities

The male tenant agreed to the amount owed for utilities. I find the landlords are entitled to recover unpaid utilities in the amount of **\$255.04**.

Locks

I am not satisfied in this matter that the landlords cost incurred are a result of the tenants. The locksmith invoice submitted as evidence, show they changed door

handles. I find it highly unlikely a door handles would have to be replaced. I find the landlords have failed to provide sufficient evidence.

Further, I am not satisfied on the gate lock. The evidence of the tenants was that the lock was broken from the weather and is normal wear and tear, I find the tenants version probable and without further evidence from the landlords, such as providing the age of the lock or even a photograph of the lock that they have not met the burden of proof.

Based on the above, I find the landlords' are not entitled to any cost relating to locks. Therefore, I dismiss this portion of their claim.

Cleaning

Under section 37 of the Act, the tenants are required to return the rental unit to the landlords 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.

Under the Residential Policy Guideline 1, which clarifies the rights and responsibilities of the parties for the premises under the Act, the tenants are expected to clean the carpets when they have pet, regardless of the duration. I find the tenants did not clean the carpets as require and this causes losses to the landlords. I find the landlords are entitled to recover the carpet and sofa cleaning cost of **\$308.70**.

I am satisfied based on the photographs that the tenants did not leave the stove/oven reasonable clean as required. However, I find six hours to clean the appliance excessive based on these photographs. Therefore, I find a reasonable amount for compensation for cleaning the appliance is **\$50.00**.

I am not satisfied that the element pans were not cleanable; the landlords provided no evidence, such as photographs of the element pans. While it may be a personal choice to replace the element pans, rather than clean them; however, that is a personal choice. Therefore, I dismiss this portion of the landlords' claim.

I am not satisfied that the rental unit was left in such a condition that it would cost the amount of \$1,069.92 for cleaning. The landlords did not provide sufficient photographs

to support this claim. Therefore, I find the landlords are not entitled to cleaning cost, except for the stove as written above.

I find that the landlords have established a total monetary claim of **\$713.74** comprised of the above-described amounts and the \$100.00 fee paid for this application.

The tenants' application

The tenants acknowledged that they did not provide the landlords with their forwarding address in a service method permitted under the Act. Therefore the tenants are not entitled to recover double their Deposits.

Conclusion

I order that the landlords retain the amount of \$713.74 from the tenants' Deposit in full satisfaction of their claim. I grant the tenants a monetary order for the balance due of their deposits in the amount of **\$886.26**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **landlords are cautioned** that costs of such enforcement are recoverable from the landlords

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: September 13, 2017

Residential Tenancy Branch