



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MND, MNR, FF

Introduction

This was a cross-application hearing for Dispute Resolution under the *Residential Tenancy Act (the Act)*. The matter was set for a conference call hearing.

The Landlord applied for a money order for unpaid rent or utilities and damage; to keep all or part of a pet damage deposit or security deposit, and to recover the cost of the application fee.

The Tenant applied for the return of the security deposit and/or pet damage deposit.

The Landlord and Tenant were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The parties confirmed that they have exchanged the documentary evidence that is before me. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Are the Landlords entitled to a monetary order for unpaid rent or damage to the rental unit?
- Are the Landlords entitled to retain all or part of the security deposit for unpaid rent or damage to the rental unit?
- Are the Landlords entitled to recover the cost of the filing fee?
- Is the Tenant entitled to the return of the security deposit?

Background and Evidence

The parties testified that the tenancy commenced in April 2016. The Tenant was living in the basement suite of the rental property when the Landlord purchased the rental property on March 16, 2017. Rent in the amount of \$865.00 was due by the first day of each month. The Tenant paid a security deposit of \$450.00 to the original Landlord.

The Tenant testified that she received a 2 Month Notice To End Tenancy For Landlord's Use Of Property dated March 28, 2017. The Parties testified that the Tenant moved out of the rental unit on May 13, 2017.

Landlord's Application

The Landlord is seeking compensation for unpaid rent and damage to the rental unit as follows:

Rent (April \$865.00 and May \$362.74)	\$1227.74
Blinds	\$154.98
Cleaning	\$144.00
Toilet seat	\$62.72
Window screen	\$15.00

Rent

The Landlord testified that the Tenant gave him a cheque for April 2017, rent, which was returned by the bank as an invalid account. The Landlord is seeking \$865.00 for April 2017, rent and \$362.74 for May 2017, rent.

The Landlord testified that the Tenant indicated that she wanted to move out early but did not give written notice to end the tenancy.

In response, the Tenant testified that she gave the Landlord the wrong cheque for April 2017, rent. She testified that she gave the Landlord written notice that she was moving out of the rental unit at the end of April 2017. She testified that her plans changed and she asked the Landlord if she could stay until May 15, 2017, but the Landlord said no.

The Tenant testified that on May 3, 2017, she gave the Landlord a written notice that she was moving out on May 13, 2017. She testified that she put the written notice to end the tenancy in the Landlord's mailbox. She testified that she informed the Landlord about her notice to end the tenancy via text message.

In response, the Landlord testified that he received the Tenant's notice to end the tenancy on May 3, 2017.

The Tenant testified that she did not receive any compensation from the Landlord regarding the 2 Month Notice To End Tenancy For Landlord's Use Of Property that she received from the Landlord.

Blinds

The Landlord is seeking \$154.98 for the purchase of new blinds. The Landlord testified that the blinds were found to be broken at the end of the tenancy. The Landlord testified that the blinds were new at the start of the tenancy. The Landlord provided a copy of a receipt for the purchase of the new blinds.

The Landlord provided a copy of a condition inspection report (the "report"). The report only shows the condition and state of repair of the rental unit at the end of the tenancy. The report is not signed by the Tenant.

In response, the Tenant testified that she did not damage the blinds and that the blinds were damaged at the start of her tenancy. She testified that she had informed the Landlord that the blinds were damaged.

Cleaning of the Unit

The Landlord testified that the rental unit was left unclean at the end of the tenancy and the Landlord spent 6 -7 hours cleaning the rental unit. He testified that he cleaned the kitchen fridge and stove; bathroom and bathroom tub; and the walls of the rental unit. The Landlord provided color photographs taken of the interior of the rental unit at the end of the tenancy in support of his testimony that the rental unit was left unclean.

In response, the Tenant testified that she cleaned the rental unit including the kitchen and bathroom at the end of the tenancy. She testified that she did not clean the window sill in the bathroom.

Toilet Seat

The Landlord testified that the Tenant is responsible for breaking the toilet seat in the bathroom. The Landlord is seeking \$62.72 for the cost to replace the seat.

The Tenant responded that she accepts responsibility for the broken toilet seat.

Window Screen

The Landlord testified that the Tenant is responsible for damaging a window screen. The Landlord is seeking \$15.00 for the replacement cost of the screen.

The Tenant responded that that she accepts responsibility for damaging the window screen.

Security Deposit

On May 23, 2017, the Landlord applied for dispute resolution requesting to keep the security deposit of \$450.00 in satisfaction of his claim for unpaid rent and damage.

Tenant's Application

The Tenant is seeking the return of double the amount of the security deposit.

The Tenant testified that she provided the Landlord with her forwarding address in writing when she moved out of the rental unit on May 13, 2017. She testified that she told the Landlord at that time, he could keep the cost of the screen and toilet seat from the deposit.

In response, the Landlord testified that he received the Tenant's forwarding address in writing on May 13, 2017.

Analysis

Residential Tenancy Policy Guideline # 17 Security Deposit and Set Off states

The landlord has 15 days, from the later of the day the tenancy ends or the date the landlord receives the tenant's forwarding address in writing to return the security deposit plus interest to the tenant, reach written agreement with the tenant to keep some or all of the security deposit, or make an application for dispute resolution claiming against the deposit.

If the landlord does not return or file for dispute resolution to retain the deposit within fifteen days, and does not have the tenant's agreement to keep the deposit, the landlord must pay the tenant double the amount of the deposit.

Section 51 (1) of the Act states that a Tenant who receives a notice to end a tenancy under section 49 [landlord's use of property] is entitled to receive from the Landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

Section 32 of the Act states that a Tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. A Tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the Tenant or a person permitted on the residential property by the Tenant.

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

Rent

I find that the Tenant failed to provide written notice to the Landlord to end the tenancy effective at the end of April 2017. I find that the Tenant gave proper written notice, in accordance with section 50 of the Act, to end the tenancy effective May 13, 2017.

I find that the Tenant failed to pay the rent of \$865.00 for April 2017, and \$865.00 for May 2017. In accordance with effective date of the 2 Month Notice To End Tenancy For Landlord's Use Of Property, the Tenant was entitled to live in the rental unit until May 31, 2017; however, she gave early notice to end the tenancy effective May 13, 2017.

The Tenant is obligated to pay the rent for the entire month of April 2017, and for 13 days of May 2017. The Tenant owes the Landlord rent in the amount of \$1,227.74.

The Tenant is entitled to one month's rent and I find that the Landlord failed to compensate the Tenant in the amount of one month's rent pursuant to section 51(1) of the Act.

After setting off the rent owing to the Landlord of \$1,227.74 with the compensation of \$865.00 that the Tenant is entitled to regarding the 2 Month Notice, I find that the Tenant owes the Landlord the amount of \$362.74 for rent.

Toilet Seat and Screen

The Tenant accepted responsibility for damaging the toilet seat and screen. I grant the Landlord \$77.72 for these claims.

Blinds

The Tenant did not accept responsibility for the damage to the blinds. I find that the Landlord provided insufficient evidence that the Tenant was responsible for the damage to the blinds. The report provided by the Landlord does not provide information on the condition of the rental property at the start of the tenancy.

The Landlord's claim for \$154.98 is dismissed.

Cleaning of the Unit

The Landlord provided the stronger evidence regarding the condition and state of repair of the rental unit at the end of the tenancy. The Landlord's photographs of the rental unit support his testimony that the rental unit was left unclean.

The Tenant is responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with reasonable health and cleanliness standards. I find that the Tenant left the rental unit unclean. I grant the Landlord the amount of \$144.00 for the cost to clean the rental unit.

Security Deposit

I find that the tenancy ended when the Tenant moved out of the rental unit on May 13, 2017. The Landlord applied for dispute resolution on May 23, 2017.

I find that the Landlord made an application for dispute resolution against the security deposit within 15 days of the date the Tenant provided her forwarding address. I find that the Landlord held the deposit in accordance with the Act and that the amount of the deposit does not double.

The Landlord applied to keep the security deposit in satisfaction of his claims. I find that security deposit of \$450.00 will be applied to any monetary claims established by the Landlord.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was successful with his application, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a monetary claim in the amount of \$684.46. This amount is comprised of \$362.74 for unpaid rent; \$221.72 for damage and cleaning; and \$100.00 for the cost of the filing fee.

After setting off the security deposit of \$450.00 towards the award of \$684.46, I find that the Landlord is entitled to a monetary order in the amount of \$234.46. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Landlord is obligated to compensate the Tenant the equivalent of one month's rent due to the issuance of a 2 Month Notice To End Tenancy For Landlord's Use Of Property.

The Landlord established a monetary claim of \$684.46 for unpaid rent and damage and cleaning costs.

After setting off the security deposit of \$450.00 towards the award of \$684.46, I find that the Landlord is granted a monetary order in the amount of \$234.46.

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: November 29, 2017

Residential Tenancy Branch