



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes SS MNR MND MNSD FF

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("the Act") for: a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage under the Act, regulation or tenancy agreement pursuant to section 67; authorization to retain the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and authorization to recover the filing fee from the tenants pursuant to section 72. The landlords withdrew their request for a subservice order pursuant to section 71 of the Act.

Neither of the tenants attended this hearing, although I waited until 1:50 p.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended and was given a full opportunity to be heard, to present sworn testimony, and to make submissions with respect to the landlords' application.

The landlord testified that he was not given a forwarding address by the tenants. He testified that, because the rental unit was in a small community, he was able to make inquiries and determine where the tenants moved to. He testified that a close family member provided him with the address where the tenants now reside. Based on the affidavit submitted detailing service of the landlords' Application for Dispute Resolution ("ADR") including the Notice of Hearing and based on the undisputed sworn testimony of the landlord, I find that the landlord sufficiently served both tenants with the ADR in accordance with section 89 and 90 of the Act.

The landlord testified that he sent his additional evidence materials to the tenants December 18, 2017 by regular mail service. Based on the undisputed and unwavering testimony of the landlord, I find that the tenants were also sufficiently served with the landlord's evidence package in accordance with section 88 and 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, damage to the rental unit, and other compensation for his costs in cleaning and travelling to the rental unit to clean? Is the landlord entitled to retain the tenants' security deposit in partial satisfaction of the monetary order requested? Is the landlord entitled to recover his filing fee?

Background and Evidence

A copy of the residential tenancy agreement was submitted to show that this tenancy began on September 1, 2015 as a one year fixed term and continued after one year as a month to month tenancy.

The rental amount of \$1650.00 was payable on the first of each month and the landlord continues to hold an \$825.00 security deposit paid at the outset of this tenancy. The landlord testified that the tenants were made aware on move-in that the landlords intended to sell the property. The landlord testified that, in the last months of the tenancy, the tenants had become increasingly annoyed about having to allow the rental unit/home to be shown to prospective buyers. The landlord testified that, eventually, sometime in April 2017, the tenants abandoned the rental unit taking the keys, garage door openers and leaving a huge mess.

The landlord testified that he issued a 2 Month Notice to End Tenancy for Landlord's Use to the tenants prior to their vacating the rental unit. He testified that, in response, the tenants filed to cancel the notice to end tenancy and threatened that if the landlord came on the property, they would sick their dogs on him. He testified that, while the tenants remained in the rental unit until sometime in April, the tenants did not pay rent in March 2017 or April 2017. He testified that, after the landlords completed cleaning and repairing the property, they sold it.

The landlord testified that the home rented by the tenants was on an island and some distance from his own home (not on the island). He testified that his caretaker advised him that one of the rental units seemed to be empty in mid-April 2017. The landlord testified that he had to incur costs (ferry and mileage/gas) to travel to the island and inspect the premises. He testified that, when he did so, he discovered the unit was in an atrocious state of repair. The landlord testified that the rental unit had one prior tenant for 3 years prior to the tenants moving into the rental unit. He testified that the property was brand new in 2012 and relied on the condition inspection report at move-in to show that the unit was in pristine condition prior to this tenancy.

The landlord testified that he believed the tenants had had created an intentional mess prior to vacating the rental unit. He provided photographic evidence to show the condition of the rental unit. The photographs show dirty diapers throughout the residence and on kitchen countertops; leftover food; abandoned property and junk; garbage strewn about the property including a half-eaten fast food dessert on the living room floor.

The landlord identified an amount of \$4691.00 for recovery however based on his receipts, the following is a list of the items and the amount that the landlord sought compensation for,

Item	Amount
Unpaid Rent (March & April 2017) 2 months x \$1650.00 per month	\$3300.00
Travel (Ferry) costs	95.60
Mileage (gas) costs	211.50
Cleaning costs, oven cleaner/gloves (\$415.00 + \$8.36)	423.36
Locks rekeyed and keys	91.84
Garage door openers replaced	87.34
Light bulbs replaced	96.27
Dump to dispose of tenant's refuse	25.00
Security Deposit	-825.00
Recovery of Filing Fee for this Application	100.00
Total Monetary Order Sought by Landlord	\$3605.91

The landlord testified that the cleaning of the rental unit was done on two separate dates. He testified that, on the first date, he spent over 20 hours cleaning on 2-3 separate days. He testified that he and his wife tried to reduce their costs by cleaning themselves. He also testified that the landlords brought a lot of cleaning supplies from home but that they had some costs related to cleaning, purchasing oven cleaner and gloves. The landlord provided a receipt for the cleaner and gloves of \$8.36. He attributes an amount of \$185.00 to cleaning: \$20.00 at 20.75 hours.

The landlord testified that the tenants essentially abandoned the rental unit. He testified that they did not leave any keys to the residence behind and that the residence had been left unlocked for an unknown period of time. He testified, referring to his receipts submitted as evidence for this hearing, that it cost \$91.84 to rekey the locks at the residence. He also testified that the tenants did not leave the garage door openers. He testified that he did not replace the whole unit but priced out universal remotes and purchased them at what he describes as a reasonable cost of \$87.34.

The landlord testified, with certainty that all lightbulbs were working in the residence at move-in. He testified that, if they were not, he would have noted it on the condition inspection report. Further, he testified that, because the previous tenant had been so neat and clean, the only item he had to address with her was replacement lightbulbs and that it was easily resolved with the previous tenant. He testified that, at the end of this tenancy, every light was either burnt out or removed. He listed a cost of \$96.27 for light bulbs.

The landlord referred to the photographic evidence to show the dirtiness of the rental unit as well as the amount of items that were abandoned in the rental unit. The landlord testified that he needed to go to the dump, as evidenced by his receipts (and the photographs) to dispose of all the junk and refuse left behind. He submitted receipts totalling \$25.00 for going to the dump.

The landlord sought permission to retain the tenant's security deposit towards the costs as well as to recover the filing fee for this application.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In this case, I accept the detailed evidence of the landlord, supported by his documentary and photographic evidence that he incurred damage and financial loss as a result of the actions of the tenant. The condition inspection report submitted for this hearing shows that the rental unit was in good condition at the outset of the tenancy and in deplorable condition at the end of the tenancy. Since this change in the condition of the rental unit occurred over the course of this tenancy and as it was the tenants' responsibility to leave the rental unit in a neat and tidy condition, I find that the loss incurred by the landlord is a direct result of a violation of the residential tenancy agreement and the Residential Tenancy

Act. Below, I will assess each item claimed to determine if the amount the landlord claims has been verified by his evidence.

The landlord testified that the home rented by the tenants was on an island and some distance from his own home (not on the island). He testified that his caretaker advised him that one of the rental units seemed to be empty. The landlord testified that he had to incur costs (ferry and mileage/gas) to travel to the island and inspect the premises. Each ferry trip cost \$47.80. I find that the landlord is entitled to recover the cost of one trip to the island (\$47.80) as this trip was to determine whether the tenants had vacated and to clean. I find that the other cost, mileage and the second ferry trip would have been required at the end of the tenancy in any event. Therefore, I decline to award the landlord \$211.50 in mileage as claimed.

The photographs submitted by the landlord illustrated a rental unit in disrepair. There was foodstuffs, clothes, household items, garbage including but not limited to dirty diapers strewn about the property. The landlord testified that the cleaning of the rental unit was done on in 20.75 hours total. He sought \$415.00 for the time that he and his wife spend cleaning. I accept the testimony of the landlord that he attempted to reduce their costs by cleaning themselves and by bringing their own cleaning supplies from home. Based on the photographic evidence and the undisputed testimony of the landlord, I find that his costs of \$415.00 to clean and \$8.36 in cleaning supplies are both reasonable costs in all of the circumstances.

The landlord provided receipts totalling \$91.84 to rekey the home. I accept the landlord's testimony that the keys were not left behind. Therefore, the landlord is entitled to recovery this cost. As well, I accept the landlord's testimony that the garage door remotes were also not left behind. I take into account that the landlord attempted to minimize his costs by purchased universal remotes and agree with his submission that his bill for garage remotes of \$87.34 is a reasonable cost. I accept that the landlord spent \$96.27 for light bulbs and I find that he is entitled to recover this cost.

The landlord provided receipts for trips to the dump in the amount of \$25.00. I accept the testimony, supported by his photographs and his receipts that there was substantial junk and refuse left by the tenants for the landlord to remove. Therefore, the landlord is entitled to recover \$25.00 for going to the dump.

I accept the landlord's undisputed testimony and the documentary evidence to support his position that the tenants resided in the rental unit and failed to pay rent in the final two months. Therefore, I find that the landlord is entitled to recover \$3300.00 in unpaid rent.

In accordance with section 72 of the Act, I allow the landlord to retain the tenants' security deposit plus applicable interest in partial satisfaction of the monetary award. No interest is payable over this period.

As he was successful in his application, the landlord is entitled to recover the filing fee.

Conclusion

I grant the landlord a monetary order as follows,

Item	Amount
Unpaid Rent (March & April 2017)	\$3300.00

2 months x \$1650.00 per month	
Travel (Ferry) costs	47.80
Cleaning costs, oven cleaner/gloves	423.36
Locks rekeyed and keys	91.84
Garage door openers replaced	87.34
Light bulbs replaced	96.27
Dump to dispose of tenant's refuse	25.00
Security Deposit	-825.00
Recovery of Filing Fee for this Application	100.00
Total Monetary Order to Landlord	\$3346.61

The landlord is provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: January 31, 2018

Residential Tenancy Branch