



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LANDMARK REALTY MISSION LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FF, MNDC, MNSD, MND

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*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

Both parties attended the hearing and 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 tenant acknowledged receipt of evidence submitted by the landlord. The tenant did not submit any documentation for this hearing. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Preliminary Issue

At the outset of the hearing the landlord advised that the company has changed their name and provided documentation to support that. Pursuant to section 64(3)(c) of the Act, the application is amended to reflect that change.

Issue to be Decided

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

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

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

Background, Evidence

The landlord's testimony is as follows. The tenancy began on July 1, 2013 and ended on August 31, 2017. The tenants were obligated to pay \$1739.00 per month in rent in advance and at the outset of the tenancy the tenants paid an \$825.00 security deposit which the landlord still holds. Written condition inspection reports were conducted at move in and move out. The landlord testified that the tenant introduced some bedbugs into the unit in November 2016. The landlord testified that although it may have been accidental, the tenants' should be held responsible for it. The landlord testified that the unit and carpets were left dirty at move out and far from a reasonable condition.

The landlord testified that the tenants were responsible for cutting the lawn but did not do it at move out. The landlord testified that the tenants left Christmas lights attached to the home behind, as well as not cleaning the rust and paint stains from the deck. The landlord testified that the tenants put some major gouges into the door, casings, railings and post at move out that required some repair and painting. The landlord testified that the tenants damaged the vinyl deck. The landlord provided an estimate and put forth 30% of the cost to conduct the repair. The landlord seeks some depreciation costs as well as the filing fee.

The landlord is applying for the following:

1.	Remediation of Bed Bugs	\$840.00
2.	Cleaning the rental unit	577.50
3.	Carpet cleaning	250.00
4.	Lawn	37.50
5.	Remove Christmas lights, clean deck	162.75
6.	Paint 2 doors, casings, railings and post	138.35
7.	Vinyl Deck Repair estimate	202.12
8.	Filing Fee	100.00
9.	Minus Deposit	-825.00
	Total	\$1483.22

The tenant gave the following testimony. The tenant testified that she didn't purposely bring bed bugs in and that she incurred extensive financial costs as well. The tenant

testified that she was willing to split the cost of some of the items but does not agree to the costs as claimed. The tenant testified that the landlord was slow in responding to repair requests and general maintenance. The tenant testified that she thinks that many of the landlords' claims are unreasonable and that they are "nit picking" at this point.

Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the landlord's claim and my findings around each are set out below. 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 provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

Bed Bug Remediation -\$840.00

The landlord submits that since the bed bugs were found three years after the tenants had moved in and that there was no bed bug history in the home, the tenants must be the cause of the infestation and that the tenants are responsible. Although the landlord has submitted some documentation for this claim, they have not provided sufficient evidence to show that the tenants were reckless or negligent to cause the presence of bed bugs. Based on the insufficient evidence before me, I dismiss this portion of the landlords claim.

Suite Cleaning - \$577.50

The tenant testified that she would be willing to pay for half of this claim as she acknowledged that she wasn't able to clean all items but feels the landlords' standard is unreasonable and not warranted. Residential Tenancy Policy Guideline 1 outlines that a tenant must leave a suite in a reasonably clean condition at move out. Based on the condition inspection report, photos, receipt and the testimony of the landlord, I am satisfied that the landlord has provided sufficient evidence to support this claim and that the suite was not left in a reasonably clean condition. I find that the landlord is entitled to \$577.50.

Carpet Cleaning - \$250.00

The tenant testified that the unit was “a major construction zone due to a flood in March 2017”. The tenant testified that the carpets were professionally cleaned in June 2017. The landlord testified that the carpets were not sufficiently cleaned. Residential Tenancy Policy Guideline 1 outlines that a tenant must shampoo the carpets at move out. Based on the condition inspection report, photos, receipt and the testimony of the landlord, I am satisfied that the landlord has provided sufficient evidence to support this claim and that the carpets were not cleaned sufficiently. I find that the landlord is entitled to \$250.00.

Lawn – \$37.50

The landlord testified that as part of the tenancy agreement the tenant was responsible for the cutting of the lawn. The landlord provided the tenancy agreement to support this claim. The tenant testified that she was willing to split the cost with the landlord. Based on the landlords’ documentation and the tenants’ acknowledgement that she did not cut the grass at move out; I find that the landlord is entitled to \$37.50.

Christmas Light Removal, cleaning deck \$162.75

The tenant testified that she’s willing to split the cost of this claim with the landlord. The tenant testified that the landlord was being unreasonable in the level of cleanliness that they were seeking for the deck and that half of the Christmas lights taken down were not hers. Based on the condition inspection report, photos, receipt and the testimony of the landlord, I am satisfied that they have provided sufficient evidence to support this claim. I find that the landlord is entitled to \$162.75.

Painting of doors, casings, railings and posts - \$138.35

The tenant testified that she’s willing to split the cost of this claim with the landlord. The tenant testified she agrees to the doors and casings but the railings were just wear and tear. Based on the condition inspection report, receipt and the testimony of the landlord, I am satisfied that they have provided sufficient evidence to support this claim. I find that the landlord is entitled to \$138.35.

Vinyl Deck Estimate – \$202.12

The landlord has not provided an actual out of pocket cost incurred as outlined above in satisfying the four factors under section 67 of the Act. The landlord advised that they will not be conducting this repair. Based on the insufficient evidence before me, I dismiss this portion of the landlords claim.

The landlord is entitled to the recovery of the \$100.00 filing fee.

Conclusion

In summary, the landlord has been successful in the following claims:

Suite cleaning	\$577.50
Carpet Cleaning	\$ 250.00
Lawn	\$37.50
Remove Christmas Lights, deck cleaning	\$162.75
Painting doors, casings, rails and posts	\$ 138.35
Filing Fee	\$ 100.00
Minus Deposit	-\$825.00
Total:	\$441.10

The landlord has established a claim for \$1266.10. I order that the landlord retain the \$825.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$441.10. This order may be filed in the Small Claims 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: April 16, 2018

Residential Tenancy Branch