



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Landlord under the *Residential Tenancy Act* (the “Act”), for a Monetary Order for money owed or damage or loss under the Act, regulation, or tenancy agreement, and recovery of the filing fee, as well as retention of the Tenant’s security deposit.

The hearing was convened by telephone conference call and was attended by agent for Landlord (the “Agent”), who provided affirmed testimony. The Tenant did not attend. The Agent was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the respondent must be served with a copy of the Application and Notice of Hearing. As the Tenant did not attend the hearing, I confirmed service of these documents as explained below.

The Agent testified that the Tenant was sent a copy of the Application and the Notice of Hearing by registered mail on October 2, 2017, at the forwarding address provided by her on the move-out condition inspection report. In support of her testimony she provided a copy of the move-out condition inspection report containing the Tenant’s forwarding address. As a result of the above and pursuant to sections 89 and 90 of the Act, I find that the Tenant was deemed served with the Application and the Notice of Hearing on October 7, 2017, five days after they were sent to her by registered mail.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure. However, I refer only to the relevant facts and issues in this decision.

At the request of the Agent, copies of the decision and any orders issued in favor of the Landlord will be mailed to the Landlord at the mailing address listed on the Application.

Issue(s) to be Decided

Is the Landlord entitled to a Monetary Order for money owed or damage or loss under the *Act*, regulation, or tenancy agreement, and recovery of the filing fee?

Is the Landlord entitled to retain all or a portion of the Tenant's security deposit?

Background and Evidence

The Agent testified that the one-year fixed-term tenancy began on January 1, 2016, at a monthly rent amount of \$1,500.00, and ended on September 30, 2017. The Agent stated that a security deposit in the amount of \$750.00 was paid, which the Landlord still holds.

The Agent testified that hardwood flooring was laid in the 600 square foot one bedroom apartment approximately four years prior to the start of the tenancy and that due to the Tenant's medical incontinence; the floors throughout the entire apartment could not be adequately cleaned at the end of the tenancy and needed to be replaced. The Agent stated that the floors were replaced with lower quality flooring than what was present at the start of the tenancy and submitted a receipt for the floor removal and replacement in the amount of \$8,562.23.

The Agent stated that the Tenant also failed to return any keys for the rental unit and as a result, the locks were re-keyed and a new fob was obtained at a cost of \$125.00. The Agent stated the apartment was not fully cleaned at the end of the tenancy and required four hours of cleaning by an employee of the Landlord. As a result, the Landlord sought \$90.00 in cleaning costs.

The Tenant did not attend the hearing to provide any evidence or testimony for my consideration.

Analysis

Section 37 of the *Act* states 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, and give the landlord all the keys or other means of access that are in the

possession or control of the tenant and that allow access to and within the residential property.

Residential Tenancy Policy Guideline (the "Policy Guideline") # 1 states that reasonable wear and tear refers to natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion.

Section 7 of the *Act* states that if a landlord or tenant does not comply with the *Act*, regulation, or tenancy agreement the non-complying party must compensate the other for the damage or loss that results. Section 7 also states that a landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with the *Act*, regulation, or tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Section 65(1)(d) of the *Act* states that if the director finds that a landlord or a tenant has not complied with the *Act*, regulation, or tenancy agreement, the director may order that any money owing by a tenant or a landlord be repaid.

I do not find that floor damage caused by urine constitutes reasonable wear and tear and I accept the Agent's undisputed evidence and testimony that the Tenant failed to leave the property in reasonably clean and undamaged condition, with the exception of reasonable wear and tear, at the end of the tenancy. As the Landlord had their own employee clean the unit at a reasonably hourly rate instead of hiring a cleaning company, replaced the flooring with a cheaper material than what was present at the start of the tenancy, and only sought the direct costs associated with fob, key, and lock replacement, I find that the Landlord has acted reasonably to minimize the damage or loss suffered.

Based on the above, I find that the Landlord is entitled to compensation for money owed or damage or loss under the *Act*, regulation or tenancy agreement in the amount of \$8,777.23. Pursuant to section 72 of the *Act*, I also find that the Landlord is entitled to the recovery of the \$100.00 filing fee and to retain, in full, the \$750.00 damage deposit paid by the Tenant, in partial satisfaction of the above noted costs. As a result, the Landlord is entitled to a Monetary Order in the amount of \$8,127.23

Conclusion

Pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$8,127.33. The Landlord is provided with this Order in the above terms and the Tenant must be served with **this Order** as soon as possible. Should the Tenant 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: May 3, 2018

Residential Tenancy Branch