



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CENTENNIAL PARK APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCL-S, MNDL-S, FFL

Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* for a monetary order for compensation, a monetary order for damages and the recovery of the filing fee paid for this application.

Two agents for the Landlord (the “Landlord”) attended the teleconference hearing while no one called in for the Tenants during the approximately 30 minute hearing. As the Tenants were not present at the hearing, the Notice of Dispute Resolution Proceeding (the “Notice of Hearing”) was addressed.

The Landlord provided affirmed testimony that the Notice of Hearing along with copies of their evidence package was sent to each of the Tenants by registered mail on October 24, 2017. The packages were sent to the forwarding address provided by the Tenants. During the hearing, the Landlord provided the two registered mail tracking numbers which are listed on the front page of this decision. The tracking numbers were entered on the Canada Post website, and it was confirmed that the packages were picked up. I am satisfied that the Notice of Hearing and evidence was served to both Tenants.

Rule 7.3 of the Rules of Procedure states that if a party does not attend the hearing, the hearing may be conducted in their absence. In accordance with this, the hearing continued in the absence of both respondents.

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.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order for compensation?

Is the Landlord entitled to a monetary order for damages?

Background and Evidence

The tenancy began on July 1, 2016 and ended on August 31, 2017. A security deposit in the amount of \$625.00 was paid at the outset of the tenancy with no pet damage deposit paid. The Landlord is still in possession of the full security deposit. The Landlord submitted documentary evidence of the Tenants' notice to end the tenancy. The notice was sent to the Landlord on July 28, 2017 and informed the Landlord that they would be moving out of the rental unit on August 31, 2017.

The Landlord submitted in evidence a copy of the Condition Inspection Report and testified that the Tenants participated in this report during move-in and move-out. The Condition Inspection Report on move-out was conducted on August 31, 2017 and lists the condition of much of the rental unit as dirty. The report also notes that there were needles left in the rental unit, blood on a wall and that the stove and oven were left uncleaned. The Landlord testified that the Tenants refused to sign the Condition Inspection Report upon move-out and did not acknowledge any responsibility for the condition of the rental unit or provide permission to deduct the cost of any damages from the security deposit.

The Landlord also submitted photos as evidence showing the state of the rental unit upon the Tenants moving out. The photos were taken on August 31, 2017, the day the move-out Condition Inspection Report was completed.

The Landlord testified that they received the Tenants' forwarding address in writing on October 6, 2017 and submitted evidentiary material of an email exchange where the Landlord accepted the Tenants' forwarding address in this manner.

The Landlord submitted in evidence a move-out responsibilities list that was provided to the Tenants on July 31, 2017 and states the cleaning charges the tenants are responsible for in the case that the rental unit is not cleaned upon vacating the unit. This list notes a \$150.00 charge for cleaning the whole stove and oven, as well as general cleaning rates billed at \$50.00 per hour.

The Landlord submitted a Monetary Order Worksheet outlining the following claims for damage and compensation for a total of \$1,325.00 claimed:

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|--|----------|
| • General cleaning of suite | \$350.00 |
| • Cleaning of stove/oven | \$150.00 |
| • Painting | \$125.00 |
| • Refund of 2 weeks rent to new tenant | \$700 |

The Landlord submitted in evidence an invoice from the cleaners who cleaned the rental unit after the Tenants moved out. The invoice indicates a charge of \$150.00 for cleaning the oven and stove and a \$350.00 charge for cleaning the rest of the rental unit. The Landlord testified that the rate for cleaning is charged at \$50.00 per hour for two cleaners.

The Landlord testified that the Tenants had attached a “donnacona” board onto one wall of the rental unit. The Landlord further submitted that that upon removal of this board, some of the paint and drywall came off the wall. The Landlord testified that the cost of repairing and painting this section of the wall was \$125.00.

The Landlord also applied for \$700.00 in compensation for the recovery of two weeks rent that they paid to the new tenant who was moving into the unit after the Tenants named on this dispute moved out. The Landlord provided a copy of the cheque given to the new tenant as evidence. The Landlord submitted that the new tenant was very upset and inconvenienced by the state of the rental unit upon moving in and stated that it took approximately one week to coordinate with the new tenant and complete the cleaning and repairs needed in the rental unit. The Landlord submitted that to compensate the new tenant for the inconvenience, they reimbursed the tenant with half of the first month’s rent in the amount of \$700.00.

Analysis

I refer to Section 37(2) of the *Residential Tenancy Act* (the *Act*) that states that upon vacating a rental unit, a tenant is responsible for leaving the unit reasonably clean and undamaged. Based on the undisputed evidence and testimony of the Landlord, I find that the Tenants did not leave the rental unit in a state that could be considered reasonably clean. The photos submitted as evidentiary material show considerable dirt and mess left throughout the rental unit that the Landlord became responsible for cleaning after the Tenants vacated the unit. I also accept the Landlord’s undisputed testimony as to the state of the rental unit upon the Tenants moving out.

Section 7 of the *Act* states that a party who does not comply with the *Act* must provide compensation for the resulting damage or loss. As I have determined that the Tenants did not comply with Section 37(2) of the *Act* in regards to the state of the rental unit when they moved out, I find that they are responsible for the costs of the resulting damage and loss to the Landlord. As the Landlord paid to have the rental unit cleaned and repaired, I find that the Tenants are responsible for compensating the Landlord for the costs paid to have the unit cleaned and repaired.

The *Residential Tenancy Policy Guideline 16 – Compensation for Damage or Loss* states the following:

The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred.

In accordance with the above, I determine that \$350.00 for cleaning the unit, \$150.00 for cleaning the stove/oven and \$125.00 for repairing and painting the wall will be awarded to the Landlord for total compensation in the amount of \$625.00.

As for the \$700.00 in compensation claimed by the Landlord for the recovery of the rental reimbursement they provided to the new tenant moving into the rental unit, I find that there is insufficient evidence to prove the amount of damage/loss and resulting compensation. Although I do find that the new tenant was likely inconvenienced due to the state of the rental unit upon moving in, the burden of proof is on the Landlord to demonstrate the amount of the damage or loss to the new tenant and I do not find there is sufficient evidence to establish the determination of the amount paid.

I find that the new tenant was likely inconvenienced as a result of the Tenants named on this dispute not complying with their duties under the *Act* to leave the rental unit in a reasonably clean state. However, I do not find that the Landlord proved that \$700.00 was the amount of inconvenienced caused to the new tenant. As a result, I acknowledge that a loss occurred to the Landlord who provided this amount to the new tenant and award nominal compensation in the amount of \$50.00.

Section 38(1) of the *Act* states that within 15 days of the later of when the tenancy ends or the tenant's forwarding address is provided, the Landlord must either repay the security deposit or file for dispute against the security deposit. As the Landlord submitted evidence showing that the Tenants' forwarding address was provided to them on October 6, 2017 and they applied for dispute resolution on October 12, 2017, I find they were within the timeline outlined by the *Act* to claim against the security deposit. As such, I order the Landlord to retain the full security deposit in partial satisfaction of the full amount owed to them by the Tenants.

As the Landlord was successful in their application, I also find that they are entitled to the recovery of the filing fee paid for this application in the amount of \$100.00.

A Monetary Order will be issued to the Landlord in the amount outlined below:

Monetary Order Calculations

Cleaning of rental unit	\$350.00
Cleaning of oven/stove	\$150.00
Painting/repair of wall	\$125.00
Nominal damages	\$50.00
Recovery of filing fee	\$100.00
<i>Less security deposit</i>	<i>(\$625.00)</i>
Total owing to Landlord	\$150.00

Conclusion

I **Order** that the Landlord retain the security deposit of **\$625.00** in partial satisfaction of the total amount owed.

Pursuant to sections 67 and 72 of the *Act*, I grant the landlord a **Monetary Order** in the amount of **\$150.00** for the balance of money owed for compensation for damages and loss, as well as the recovery of the filing fee paid for this application. The Landlord is provided with this Order in the above terms and the Tenants must be served with **this Order** as soon as possible. Should the Tenants 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 22, 2018

Residential Tenancy Branch