



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding E Y PROPERTIES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR MND FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for a monetary order for unpaid rent and for damage to the rental unit pursuant to section 67 and authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenants did not attend this hearing, although I waited until 1:46 p.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 1:30 p.m. Two representatives for the landlord attended the hearing and both were given a full opportunity to be heard, to present affirmed testimony, and to make submissions. I confirmed that the correct call-in numbers and participant codes were provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord's two representatives and I were the only ones who had called into this teleconference.

Landlord AO testified that the tenants were both individually served with the landlord's Application for Dispute Resolution package (with notice of this hearing) by registered mail. The landlord submitted the Canada Post tracking numbers and information. The packages sent by the landlord to the tenants were returned to them. Landlord AO testified that the packages were sent at the address provided verbally by the tenants prior to move-out: it was their parents' address. I find that, pursuant to section 89 and 90 of the Act, the tenants were each deemed served with the landlord's Application for Dispute Resolution on October 24, 2017 (5 days after its registered mailing).

Issue(s) to be Decided

Is the landlord entitled to a monetary order for damage to the unit and unpaid rent?
Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

This tenancy began September 1, 2014 as a one year fixed term and continued thereafter on a month-to-month basis. The landlord continues to hold a \$485.00 and a \$25.00 key deposit paid by the tenants at the outset of this tenancy. The tenants vacated the rental unit on September 30, 2017. The landlord applied to retain the tenants' \$485.00 security deposit and the \$25.00 key deposit towards a total monetary award of \$2810.36.

The landlord submitted photographic evidence of the unit at the end of the tenancy. Landlord AO testified that, while the tenants were packing up, she came to the residence to discuss a condition inspection. The tenants stated they would take a load of items to the car and return for the inspection: the tenants never returned leaving items in the rental unit that the landlord had to dispose of, as well as damage to the rental unit.

The landlord submitted a copy of the condition inspection report for the rental unit - including both move-in and move-out information. The report indicated: unit required cleaning; 2 cupboard doors off; broken bedroom closet door; bedroom door & hall door needs to be replaced; smoke alarm pulled out; and entry (building) key not returned;

Landlord AO, relying on the condition inspection report as well as the landlord's photographic evidence, listed the damage to the tenant's rental unit and the monetary amount sought by the landlord as follows;

Item	Amount
Unit clean at end of tenancy	\$420.00
Carpet replacement (living and bedroom)	1617.00
Closet doors replaced (living and bedroom)	300.00
Drapes cleaned at end of tenancy	111.50
Repair of entrance door (agreed upon repayment)	161.86
Other Repairs (listed below inc painting and wall touch-up)	200.00
Total Monetary Order Sought by Landlord	\$2810.36

The landlord provided a company invoice to show that the landlord conducted cleaning and repairs at the end of the tenancy. The invoice including the cost to have the unit cleaned of \$420.00. The landlord's invoice also includes closet door replacement at a

cost of \$300.00. The landlord included a charge of \$111.50 on their invoice to show that the drapes were cleaned at the end of the tenancy. The landlord provided invoices documenting the cost of the carpet replacement in the bedroom and living room of the rental unit. The total cost of replacing the carpets totalled \$1617.00. The landlord testified that attempts to clean the carpets were unsuccessful – the landlord referred to the photographs to show that the carpets were badly stained over the majority of the floor area in the bedroom and living room. The landlord testified that the unit had new carpets and was freshly painted at the outset of this of tenancy: this information is noted in the condition inspection report.

The landlord testified that door broken and was repaired at a cost of \$444.63. A copy of the invoice for the repair was submitted as evidence for this hearing. The invoice was dated September 1, 2015. A letter dated the same day was submitted requesting payment from the tenants by the landlord. The landlord testified that the tenants had damaged the door and had been making payments, during their tenancy, to this date in order to repay for the damage. The amount remaining unpaid is \$161.86.

With respect to 'other repairs', the landlord referred to the photographic evidence to show that the toilet seat was broken in the rental unit; the shower head was missing; there were stains on walls in most rooms and tenant belongings and refuse left in the unit at the end of the tenancy. The landlord sought \$200.00 for these miscellaneous repairs and additional clean-up (removal of items left in the rental unit by the tenants).

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 (in this case, the landlord) bears the burden of proof.

The landlord must prove the existence of the damage/loss. I find that the landlord has proven damage and loss as a result of this tenancy by virtue of the provision of the condition inspection report that accurately reflects the landlord's testimony regarding the state of the rental unit. The photographs also support the landlord's testimony.

The landlord must prove that the damage/loss stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Again, the condition inspection report is clear and, according to Residential Tenancy Regulation

No. 21 as laid out below, the condition inspection report is the best evidence of the condition of the unit unless proven.

Evidentiary weight of a condition inspection report

- 21** In dispute resolution proceedings, a condition inspection report completed in accordance with this Part is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.

As well as the condition inspection report, the landlord must also provide evidence that can verify the actual monetary amount of the loss/damage. I find that the landlord has provided evidence with respect to monetary amount of each item the landlord seeks – with the condition inspection report to document any damage at the end of the tenancy, the receipts for work paid for, the undisputed testimony as well as the photographic evidence.

I find that the landlord proved, with invoice and condition inspection report as well as undisputed testimony that the carpets required cleaning at the end of the tenancy. I note that the residential tenancy agreement submitted by the landlord has a stamp indicating that the rental unit carpets had been cleaned professionally at the outset of the tenancy and therefore required cleaning professionally at the end of the tenancy. I find that the landlord is entitled to recover \$1617.000 -the costs for repairs to clean all of the carpets in the rental unit.

I find that the landlord proved, with invoice and condition inspection report as well as undisputed testimony that the drapes required cleaning at the end of the tenancy. The condition inspection report indicated that the drapes required cleaning at the end of the tenancy. Based on this evidence, I find that the landlord is entitled to recover \$111.50 - a portion of the costs for drape cleaning.

I find that the landlord proved, with invoice and condition inspection report, that the closet doors in the bedroom and the living room required repair at the end of the tenancy. The landlord's photographic evidence and invoices showed damage at the end of the tenancy (the doors) in excess of reasonable wear and tear. Therefore, I accept the invoice submitted by the landlord reflecting an amount of 300 .00 to fix the doors and I find that the landlord is entitled to recover \$300.00 from the tenants.

I find that the landlord proved, with invoice and condition inspection report as well as undisputed testimony that the unit required extensive cleaning at the end of the tenancy. I accept the testimony of both representatives for the landlord that the unit was very unclean and that the stove was a particularly extensive job to clean. I find that the landlord is entitled to recover \$420.00 - the cost of cleaning the unit at the end of the tenancy for 12 hours at \$35.00 an hour.

Based on the landlord's testimony and photographic evidence, I find that the landlord is entitled to \$200.00 in repairs for a broken toilet seat, a missing showerhead as well as removal of refuse and items left by the tenants in the rental unit.

I accept the testimony of both of the landlord's representatives and the documentary evidence (records of payments) that show the tenants were repaying for damage to the entrance door. The evidence shows that the tenants still owe \$161.86 for the door repair. I find that the property owner is entitled to recover \$161.86 within their monetary order.

In accordance with section 72, I find that the property owner is entitled to retain the tenants' security deposit towards the monetary amount below. As the property owner was successful in his application, I find that the property owner is also entitled to recover the \$100.00 filing fee for this application.

Item	Amount
Unit clean at end of tenancy	\$420.00
Carpet replacement (living and bedroom)	1617.00
Closet doors replaced (living and bedroom)	300.00
Drapes cleaned at end of tenancy	111.50
Repair of entrance door (agreed upon repayment)	161.86
Other Repairs (listed below inc painting and wall touch-up)	200.00
Less Security Deposit	-485.00
Less Key Deposit	-25.00
Recovery of Filing Fee for this Application	100.00
Total Monetary Order to Landlord	\$2400.36

Conclusion

I grant the landlord a monetary order in the amount of **\$2400.36**.

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 28, 2018

Residential Tenancy Branch