



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

<u>Dispute Codes</u>	Landlord:	MND MNSD FF
	Tenant:	MNDC MNSD FF

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “Act”).

The Landlord’s Application for Dispute Resolution is dated September 19, 2017. The Landlord applied for the following relief, pursuant to the *Act*:

- a monetary order for damage to the unit, site, or property;
- an order allowing the Landlord to keep all or part of the security deposit and pet damage deposit in partial satisfaction of the claim; and
- an order granting recovery of the filing fee.

The Tenant’s Application for Dispute Resolution was made on September 26, 2017. The Tenant applied for the following relief, pursuant to the *Act*:

- a monetary order for money owed or compensation for damage or loss;
- an order requiring the Landlord to return all or part of the security deposit or pet damage deposit; and
- an order granting recovery of the filing fee.

The Landlord attended the hearing at the appointed date and time, and provided affirmed testimony. The Tenant did not attend the hearing. Accordingly, the Tenant’s Application is dismissed, without leave to reapply. It has not been considered further in this Decision.

The Landlord testified the Landlord's Application package was served on the Tenant by registered mail on September 22, 2017. The Landlord's Application package was sent to a forwarding address in the United States provided by the Tenant. A Canada Post registered mail receipt was submitted in support. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Landlord's Application package is deemed to have been received by the Tenant on September 27, 2017.

The Landlord was given a full opportunity to present his evidence orally and in written and documentary form, and to make submissions to me. 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.

Preliminary and Procedural Matters

The Tenant's Application misspelled the Landlord's name. Accordingly, pursuant to section 64(3) of the *Act*, I amend the Tenant's Application to reflect the correct spelling of the Landlord's name, as set out in the Landlord's Application. In any event, as noted above, the Tenant's Application has been dismissed, without leave to reapply.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for damage to the unit, site, or property?
2. Is the Landlord entitled to retain all or part of the security deposit or pet damage deposit?
3. Is the Landlord entitled to recover the filing fee?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirmed the tenancy began on October 1, 2016. The Landlord testified the tenancy ended when the Tenant vacated the rental unit on or about August 31, 2017. Rent in the amount of \$1,400.00 per month was due on the last day of each month, and was applied to the following month. The Tenant paid a security deposit of \$700.00 and a pet damage deposit of \$700.00, which the Landlord holds.

The Landlord's monetary claim was set out in a Monetary Order Worksheet, dated December 13, 2017. First, the Landlord claimed \$400.00 to clean the rental unit, which was based on an estimate provided by a professional cleaner. The Landlord testified that kitchen cupboards, the oven, fridge, floors, and window sills needed to be cleaned. The Landlord also testified that blood and toothpaste were in the bathroom. The Landlord estimated that he and his father each spent 6-8 hours cleaning the rental unit. Photographic images were provided in support.

Second, the Landlord claimed \$250.00 for painting in the bedroom. He testified that numerous marks were left on the walls. Holes caused by wall-mounted televisions were also left in the rental unit. The Landlord estimated this work took 5-6 hours to complete. Photographic images were provided in support.

Third, the Landlord claimed \$130.00 to change the locks at the rental unit. The Landlord lives on a farm and had components available to complete the repairs. He estimated this work took 45 minutes to complete.

Fourth, the Landlord claimed \$150.00 to reinstall closet doors. He testified the Tenant removed the bi-fold mirrored doors in the rental unit. The Landlord estimated that he and his father each spent 3-1/2 hours reinstalling the doors.

Fifth, the Landlord claimed \$60.00 for parts needed to reinstall closet doors. However, he confirmed that he had the parts on hand to do so.

Sixth, the Landlord claimed \$390.00 to replace baseboard moulds. This amount is based on an estimate of time and the receipt for materials that was submitted into evidence. The Landlord testified that the Tenant "ripped out" the baseboards throughout the rental unit. Photographic images were provided in support.

Seventh, the Landlord claimed \$100.00 to fix a sink and counter. During the tenancy, the Landlord offered to repair a leak in the sink but the Tenant advised he would do it. However, the Tenant did not repair the leak. Damage included rust on the bottom of the sink and to wood below the sink. The Landlord estimated it took him and his father 1-1/2 hours each to refurbish the sink and repair the damage.

Eighth, the Landlord claimed \$55.00 to replace freezer brackets that keep food from falling out when the freezer door is opened. The Landlord testified that his father provided his bracket from home and replaced his own. A photographic image was provided in support.

Ninth, the Landlord claimed \$50.00 to repair carpet damage. The Landlord testified the Tenant's cat scratched at several areas of carpet in the front foyer and in two bedrooms. Photographic images were provided in support.

Tenth, the Landlord claimed \$175.00 to replace light fixtures. The Landlord testified that four fixtures were missing at the end of the tenancy and had to be replaced. Photographic images were provided in support.

Finally, the Landlord claimed \$100.00 in recovery of the filing fee paid to make the Application.

Analysis

Based on the unchallenged and affirmed evidence and testimony, and on a balance of probabilities, I find :

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. An applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on each party to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement. Once that has been established, the party must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the party did what was reasonable to minimize the damage or losses that were incurred.

After careful consideration of the Landlord's evidence, I find that most of the Landlord's claim was reasonable in the circumstances. However, the Landlord's claim to replace locks was reduced because they were replaced with components already available. However, I have allowed a nominal amount for labour. Similarly, the Landlord's claim for \$60.00 for components to reinstall closet doors was not allowed because the reinstallation was completed with components already available. As the Landlord has been successful, I grant \$100.00 in recovery of the filing fee and permit the Landlord to retain the security deposit and pet damage deposit held in partial satisfaction of the claim. Pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$295.00, which has been calculated as follows:

Claim	Amount
Cleaning:	\$400.00
Painting:	\$250.00
Change locks:	\$25.00
Reinstall closet doors:	\$150.00
Parts to reinstall closet doors:	\$0
Replace baseboards:	\$390.00
Fix sink and counter:	\$100.00

Replace freezer bracket:	\$55.00
Carpet damage:	\$50.00
Light fixtures:	\$175.00
Filing fee:	\$100.00
LESS deposits held:	(\$1,400.00)
TOTAL:	\$295.00

Conclusion

The Landlord is granted a monetary order in the amount of \$295.00. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: June 14, 2018

Residential Tenancy Branch