



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S

Introduction

On May 2, 2018, the Landlords submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) requesting a Monetary Order for the costs of damages to the rental unit, to deduct the cost of repairs and cleaning from the security deposit, and to recover the cost of the Filing Fee. The matter was set for a participatory hearing via conference call.

The Landlords attended the conference call hearing; however, the Tenants did not attend at any time during the 49-minute hearing. The Landlords testified that the Notice of Hearing packages were sent to both Tenants by registered mail on May 4, 2018. The Landlords provided the tracking numbers for the registered mail and the Canada Post website indicated that the packages were picked up and signed for on May 22, 2018. I find that the Tenants are deemed to have received the Notice of Hearing on May 9, 2018, in accordance with Sections 89 and 90 of the Act.

The Landlords were provided an opportunity to present their affirmed testimony, written and documentary evidence and to make submissions at the hearing. 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.

Issues to be Decided

Should the Landlords receive a Monetary Order for the costs of damages to the rental unit and deduct the cost of repairs and cleaning from the security deposit?

Should the Landlords be reimbursed for the Filing Fee?

Background and Evidence

The Landlords jointly presented the following undisputed and affirmed testimony:

The fixed-term tenancy began on February 10, 2018 and the monthly rent, due on the first of each month, was \$2,650.00. The Landlords collected and currently hold a security deposit of \$1,325.00 and a pet damage deposit of \$1,325.00.

The Landlords completed a move-in inspection with the Tenants on February 10, 2018 and completed a written report that both the Landlords and the Tenants signed.

On April 18, 2018, the Landlords and the Tenants completed a Mutual Agreement to End a Tenancy where the Tenants agreed to vacate the rental unit on May 1, 2018.

The Landlords completed a move-out inspection with Tenant DR on May 1, 2018, where the damage and comments regarding the condition of the rental unit were noted. Tenant DR signed the move-out inspection report and provided a forwarding address to the Landlords.

The Landlords had had previous discussions with the Tenants about keeping their security and pet damage deposits to cover the loss of rent due to the amendment of the fixed-term agreement; however, felt that they should apply for Dispute Resolution to formally address the damages and make a claim against the deposits.

The Landlords stated that the rental unit had been newly renovated when the Tenants moved in. The Landlords presented testimony and photographic evidence to support their claim that the Tenants left the rental unit in need of repair, repainting and cleaning. The damage included holes in the walls from television mounts, stickers on the walls and gouges on the door frames. The Landlords stated that they obtained quotes from cleaners and painters and have been waiting for this Dispute Resolution hearing before they completed the work.

The Landlords have made a total claim of \$1,750.00 to thoroughly clean, repair and repaint the rental unit.

Analysis

When making a claim for damages under a tenancy agreement or the Act, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or Act; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

Based on the above undisputed testimony and documentary evidence, I find that the Landlords have established that damage occurred and that the Tenants failed to leave the rental unit reasonably clean and in an undamaged condition at the end of their tenancy, contrary to Section 37(2) of the Act. The Landlords have obtained several quotes from a variety of contractors to establish the cost of repair and have postponed the work until they receive the results of this hearing. I have reviewed the invoices and evidence of damages and these amounts seem reasonable. Therefore, I find that the Landlords are entitled to compensation for the cost of cleaning, fixing and repainting of the rental unit, for a total of \$1,750.00 and may retain this amount from the Tenants' security and pet damage deposit, in accordance with Section 72(2) of the Act.

The Landlords' Application has merit and I find that the Landlords should be reimbursed for the \$100.00 Filing Fee.

Based on the above monetary claim, I order the Landlords to return the balance of the Tenants' security deposit and pet damage deposit, being \$800.00, within fifteen days of receiving this Decision.

Item	Amount
Tenants' Security and Pet Damage Deposit	\$2,650.00
Less compensation for repairs, cleaning and painting of the rental unit	-1,750.00
Less recovery of the Filing Fee for the Application	-100.00
Total amount to be returned to Tenants	\$800.00

Conclusion

The Landlords have established a monetary claim, in the amount of \$1,850.00, which includes \$1,750.00 in damages and \$100.00 in compensation for the Filing fee for this Application for Dispute Resolution. Pursuant to section 72(2) of the Act, I authorize the

Landlords to deduct \$1,850.00 from the Tenants' deposits of \$2,650.00, and return the balance of \$800.00.

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