



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL

Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the “Act”) for a Monetary Order for damages, to retain the security deposit towards compensation owed and for the recovery of the filing fee paid for this application.

An agent for the Landlord (the “Landlord”) and the Tenant were present for the teleconference hearing. The Tenant confirmed receipt of the Notice of Dispute Resolution Proceeding package along with copies of the Landlord’s evidence. The Tenant submitted evidence prior to the hearing, but did not serve the Landlord with a copy in accordance with the *Residential Tenancy Branch Rules of Procedure*. Pursuant to Rule 3.17, the Tenant’s documentary evidence will not be considered as part of this decision. The parties were advised as such during the hearing.

Both parties were affirmed to be truthful in their testimony and were provided the opportunity to present evidence, make submissions and ask questions of the other party.

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

Is the Landlord entitled to a Monetary Order for damages?

Is the Landlord entitled to retain the security deposit towards compensation owed?

Is the Landlord entitled to recover the filing fee for the Application for Dispute Resolution from the Tenant?

Background and Evidence

The parties agreed that the tenancy began on April 1, 2017 and ended on April 30, 2018. Rent in the amount of \$1,850.00 was due on the first day of the month. A security deposit in the amount of \$925.00 was paid at the outset of the tenancy. The Landlord confirmed they are still holding the full security deposit amount in trust.

The Landlord testified that a move-out Condition Inspection Report was completed with the Tenant on April 30, 2018. The report was submitted in evidence. A note on the Condition Inspection Report states the following:

- Cleaning to be determined
- 2 lightbulbs need to be changed in bathroom
- Patching and painting of main hall and walls

The Condition Inspection Report was signed by the agent for the Landlord and the Tenant. The Tenant's forwarding address was provided on the report at move-out.

The Landlord stated that the rental unit needed cleaning, despite the Tenant hiring a cleaner. She stated that she let the Tenant know that the cleaning was not satisfactory so that he could advise his cleaner. Photos of the unit taken on April 30, 2018 were submitted into evidence by the Landlord. The Landlord testified that the photos were submitted to show dirt in the bathroom cabinets, burnt out lightbulbs in the bathroom, a dirty bathroom mirror, dirty shower, dirty bathroom sink, uncleaned oven, uncleaned dishwasher, dirt in kitchen cabinets, uncleaned microwave, dirt under the kitchen sink, uncleaned fridge and dirt on the window sills.

The Landlord contacted the Tenant arrange to pay the remainder of the security deposit back, after deductions for the costs of cleaning and repairing the wall, but did not get a response.

The Landlord is claiming cleaning costs of \$220.50 and maintenance costs of \$328.34 for lightbulb replacement, and the repair of the wall in the front hallway that was damaged. The Landlord's total monetary claim is \$548.84.

The Tenant testified that the rental unit was dirty upon moving in and that some of the dirt remained at the end of the tenancy, such as in a kitchen cabinet that was not used during the tenancy.

He also submitted that he had offered to replace the lightbulbs, but as it was after the tenancy had ended, the Landlord would not allow him access to the rental unit. The Tenant testified that there was no hole in the hallway wall, but there were existing scratches in this area from the previous tenant.

The Tenant stated that he had a cleaner clean the unit before he moved out, but was told by an agent for the Landlord that it was not up to her standards. He offered to have the cleaner come back, but stated that the Landlord did not allow this.

The Tenant confirmed that he signed the move-out Condition Inspection Report on April 30, 2018 and provided his forwarding address at this time as well. However, the Tenant testified that he has not agreed to any deductions from his security deposit and does not believe he should be responsible for the costs the Landlord is claiming due to the condition of the unit when he moved in.

Analysis

Based on the testimony and evidence of both parties, and on a balance of probabilities, I find as follows:

The Tenant and Landlord were in agreement that they attended the move-out inspection together on April 30, 2018. The Condition Inspection Report was submitted in evidence and also has the move-in report signed by an agent for the Landlord and the Tenant on March 30, 2017.

Despite the Tenant's testimony regarding the condition of the unit at move-in, the move-in report does not note any damage to the unit other than two nails in the wall in the bathroom. The move-out report notes scratches in the entry that need patching and painting. A note was also made on the move-out report stating that cleaning would be determined and two lightbulbs needed replacing. Both parties agreed that this statement was on the report when the Tenant signed.

I refer to *Residential Tenancy Regulation 21* which states the following:

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.

I accept the Condition Inspection Report as evidence as to the state of the rental unit upon move-in and move-out and do not find “a preponderance of evidence to the contrary.” I also accept the photos submitted by the Landlord showing areas of the rental unit as uncleaned upon the Tenant vacating, despite the Tenant hiring a cleaner.

Section 37(2)(a) of the *Act* states that a Tenant must leave a rental unit “reasonably clean” at the end of a tenancy. I find sufficient evidence from the Landlord to demonstrate that this was not the case, along with what was noted and signed off on the Condition Inspection Report.

The invoice submitted for cleaning outlines one hour for cleaning of appliances at \$30.00 per hour and three hours of cleaning at \$60.00 per hour for two cleaners, for a total bill of \$220.50, including tax.

The invoice submitted from the contractor outlines the patching and painting of the entryway wall, as well as replacement of three lightbulbs, painting the bedroom wall, paint touch-ups and reattaching a window screen. As there was no evidence or testimony provided regarding the window screen, the bedroom wall or the touch-ups, and these items were not listed on the Condition Inspection Report, I find that the Tenant is not responsible. As the labour costs were not itemized on the invoice, but was billed at \$72.50 per hour for 3.5 hours, I estimate one hour of time for the items I find the Tenant is not responsible for. I also find that lightbulbs were invoiced at \$3.40 each and it was only noted that two needed replacing on the Condition Inspection Report.

As such, I find the Tenant is responsible for \$220.50 for cleaning, \$48.76 for paint, \$6.80 for two lightbulbs, and two hours of labour costs at \$76.13 per hour for 2.5 hours of cleaning, including tax.

As the Landlord has applied to retain the security deposit towards the compensation owed, I refer to Section 38(1) of the *Act* which states that a landlord has 15 days to repay the security deposit or claim against it, from the later date of the end of tenancy or the date the forwarding address was provided. As the tenancy ended on April 30, 2018, the same day that the Tenant’s forwarding address was provided, and the Landlord applied for Dispute Resolution on May 14, 2018, the Landlord applied against the security deposit in the time allowable under the *Act*.

As the Landlord was successful in their claim, I also award the recovery of the filing fee paid for this application in the amount of \$100.00. A Monetary Order will be issued to the Tenant for the return of the remainder of their security deposit in the amount outlined below.

Security deposit	\$925.00
<i>Less cleaning costs</i>	<i>(\$220.50)</i>
<i>Less lightbulbs</i>	<i>(\$6.80)</i>
<i>Less paint</i>	<i>(\$48.76)</i>
<i>Less 2.5 hours for contractor</i>	<i>(\$190.33)</i>
<i>Less filing fee</i>	<i>(\$100.00)</i>
Total owing to Tenant	\$358.61

Conclusion

The Landlord is allowed to retain an amount of **\$566.39** from the security deposit for cleaning and repairs in the rental unit, as well as the recovery of the filing fee.

The Tenant is granted a Monetary Order for the return of the remainder of the security deposit in the amount of **\$358.61**. The Tenant is provided with this Order in the above terms and the Landlord must be served with **this Order** as soon as possible. Should the Landlord 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: July 12, 2018

Residential Tenancy Branch