



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Landlord under the *Residential Tenancy Act* (the “Act”) seeking a Monetary Order and authorization to withhold the security deposit for damage to the rental unit and recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Landlord, who provided affirmed testimony. The Tenant did not attend. The Landlord was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the respondent must be served with a copy of the Application and Notice of Hearing. As the Tenant did not attend the hearing, I confirmed service of these documents as explained below.

The Landlord testified that the Application and Notice of Hearing were sent to the Tenant on December 29, 2017, by registered mail at the forwarding address he provided at the end of the tenancy. In support of the Landlord’s testimony, she provided me with the registered mail tracking number and a copy of the move-out condition inspection report where the Tenant’s forwarding address is written. With her consent I logged onto the mail service provider’s website and verified that the registered mail was sent as described above. As a result of the above, and pursuant to section 90 of the *Act*, I therefore find that the Tenant was deemed with the Application and Notice of Hearing on January 3, 2018, five days after they were sent by registered mail.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure; however, I refer only to the relevant facts and issues in this decision.

At the request of the Landlord, copies of the decision and any orders issued in her favor will be e-mailed to her at the e-mail address provided in the hearing.

Issue(s) to be Decided

Is the Landlord entitled to a Monetary Order and authorization to withhold the damage deposit for damage to the rental unit and recovery of the filing fee?

Background and Evidence

The tenancy agreement in the documentary evidence before me states that the one year fixed-term tenancy began on February 15, 2016, that rent in the amount of \$1,800.00 was due on the first day of each month, and that a security deposit in the amount of \$900.00 was paid by the Tenant, which the Landlord still holds.

The Landlord stated that although the tenancy ended, the Tenant failed to leave the rental unit undamaged except for reasonable wear and tear. Specifically the Landlord stated that the Tenant either left a window open or failed to properly secure it against a storm, resulting in water and other damage to the hanging blinds and the wall. Further to this, the Landlord stated that the Tenant damaged a door in the rental unit and cause water and heat damage to a coffee table which was rented to the Tenant as part of the furnished unit. In support of her testimony the Landlord submitted photographs of the damage, a condition inspection report showing the condition at the start and the end of the tenancy, and quotes for the repair of the blinds and coffee table.

The Landlord stated that the rental unit and the blinds are only 8 years old and both were in excellent condition at the start of the tenancy. Further to this, the Landlord stated that the rental unit was freshly painted prior to the start of the tenancy. As a result, the Landlord sought \$652.27 for the cost of blind cleaning and repair, \$123.00 for wall repair, and \$93.00 for the cost of repairing a door and replacing a damaged door stop. The Landlord also sought \$490.00 for the cost of repairing the six year old table as it was part of a set and she stated that it is more cost effective to repair it than to replace it.

The Tenant did not appear at the hearing to present any evidence or provide any testimony for my consideration.

Analysis

Section 37(2) of the *Act* states that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged, except for reasonable wear and tear. Residential Tenancy Policy Guideline (the "Policy Guideline") #1 defines reasonable wear and tear as natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion.

I do not find that water damage caused by the Tenant's failure to close or to properly secure a window constitutes reasonable wear and tear. I also not find that damage cause to a table from improper use and damage to a door from excessive force constitutes reasonable wear and tear. As a result, I find that the Tenant breached

section 37(2) of the *Act* when he failed to repair this damage prior to the end of the tenancy.

Section 7 of the *Act* states that if a landlord or tenant does not comply with the *Act*, regulation, or tenancy agreement, the non-complying party must compensate the other for any damage or loss that results. As there is no evidence to the contrary, and given my finding above that the damage to the rental unit does not qualify as reasonable wear and tear, I find that the Landlord is entitled to compensation in the amount of \$1,358.27 for the cost of the repairs.

I also find that the Landlord is entitled to recovery of the \$100.00 filing fee and to retain, in full, the \$900.00 damage deposit paid by the Tenant, in partial satisfaction of the above owed amounts. As a result, the Landlord is therefore entitled to a Monetary Order in the amount of \$458.27; \$1,258.27 in compensation for damage to the rental unit, plus \$100.00 for recovery of the filing fee, less the \$900.00 security deposit held by the Landlord.

Conclusion

Pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of **\$458.27**. 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: July 25, 2018

Residential Tenancy Branch