



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WESTWOOD RIDGE DEVELOPMENT CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL, MNDCL-S, MNDL-S

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- an order authorizing the landlord the recovery of the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted via teleconference and was attended by the landlord. No one was in attendance on behalf of the tenant. The landlord submitted documentary evidence that the tenant was served notice of this application and this hearing by registered mail on June 14, 2018. Canada Post tracking information was submitted in the landlord's evidence that shows that the item was signed for and accepted by the tenant on June 22, 2018. Based on the submissions of the landlord, I find the tenant was served in accordance to section 89 of the *Act*. Therefore, I continued in the absence of the tenant.

Issue to be Decided

Is the landlord entitled to a monetary award for damage arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to the recovery of the filing fee?

Background, Evidence

The landlord's undisputed testimony is as follows. The tenancy began on June 1, 2017 and ended on May 28, 2018. The tenant was obligated to pay \$1700.00 per month in rent in advance and at the outset of the tenancy the tenant paid an \$850.00 security deposit which the landlord still holds. The landlord testified that the tenant left the carpets dirty at move out which

required him to have them cleaned. The landlord testified that the tenant damaged the countertop but he has not yet repaired that item. The landlord testified that the tenant damaged the parking garage gate which the Strata then charged him for.

The landlord is applying for the following:

1.	Pro Carpet Care	\$94.50
2.	Garage Parking Gate	884.80
3.	Countertop – Estimate	210.00
4.	Filing Fee	100.00
5.	Minus Deposit	-850.00
6.		
7.		
8.		
9.		
10.		
	Total	\$439.30

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 bears the burden of proof.** The claimant must provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I address the landlords claim and my findings as follows.

Countertop - \$210.00

The landlord has not conducted this repair and has not incurred any “out of pocket” costs at this time; accordingly, I dismiss this portion of the landlords’ application.

As for the balance of the landlords’ application, the landlord provided extensive documentation, undisputed testimony, receipts and photos to support the balance of their application. The landlord has provided sufficient evidence to support the remainder of her claim and is entitled to \$989.30.

The landlord is also entitled to the recovery of the \$100.00 filing fee.

Conclusion

In summary, the landlord has been successful for the following items:

1.	Carpet Cleaning	\$94.50
2.	Garage Parking Gate	884.80
3.	Filing Fee	100.00
4.	Minus Deposit	-850.00
5.		
6.		
7.		
8.		
9.		
10.		
	Total	\$229.30

The landlord has established a claim for \$1079.30. I order that the landlord retain the \$850.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$229.30. This order may be filed in the Small Claims 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: October 30, 2018

Residential Tenancy Branch