



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BAYSIDE PROPERTY SERVICES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL MNDL-S

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking a monetary order for damage to the rental unit or property; an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenants for the cost of the application.

The landlord was represented at the hearing by an agent who gave affirmed testimony and called one witness, the building manager, who also gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenants joined the call. The landlord's agent testified that each of the tenants was individually served with the Landlord's Application for Dispute Resolution and notice of this hearing by registered mail on July 19, 2018, and the amended documentation was served upon each of the tenants by registered mail on August 15, 2018. The landlord has provided proof of service, and I find that both tenants have been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenants for damage to the rental unit or property?
- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord's agent testified that this fixed term tenancy began on May 1, 2015 and reverted to a month-to-month tenancy after April 30, 2016 which ultimately ended on June 29, 2018. Rent in the amount of \$1,400.00 per month was payable on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the tenants paid a

security deposit in the amount of \$700.00, which is still held by the landlord and no pet damage deposit was paid. The rental unit is an apartment in a 3-story building, and a copy of the tenancy agreement has been provided as evidence for this hearing.

The parties completed a move-in/out Condition Inspection Report, which shows the move-in portion completed, but not the move-out portion. There is no name of the landlord, but the name of one of the tenants, and shows no possession date or move-in inspection date, but shows a move-out date of June 29, 2018 and a move-out inspection date of June 30, 2018. It is signed by 2 parties, and the landlord testified that the landlord and one of the tenants signed it at move-out. The move-out portion was completed in the wrong column of the form. It also contains the tenant's forwarding address.

The landlord has provided an amended Monetary Order Worksheet setting out the following claims as against the tenants:

- \$3,875.81 for carpet replacement and baseboards;
- \$336.00 for junk removal;
- \$250.00 for cleaning; and
- \$100.00 for the filing fee, for a total of \$4,561.81.

Also provided is an Invoice dated July 16, 2018 setting out charges of:

- \$516.75 for carpet re & disposal;
- \$2,345.25 for floor refinishing;
- \$649.25 for new baseboards; and
- \$180.00 for upgrading to 5 1/2" baseboards;

The total of the invoice is \$3,875.81.

An undated garbage removal invoice totaling \$336.00 has also been provided for this hearing, which specifies: "garbage disposal & removal 2 trips load;

- 1 stove;
- 2 mattresses;
- furniture;
- garbage;
- bike;
- recycle electronics.

The landlord company took over management of the rental complex on January 1, 2018. Prior to that it was managed by another organization and when the turn-over took place,

the landlord company requested all documents pertaining to all tenants. Unfortunately, the move-in condition inspection report was not provided. The one provided for this hearing is not completed properly and the building manager, who has worked managing the building for several years, wrote the move-out portion in the wrong column and the report actually shows the condition at the end of tenancy on June 30, 2018.

The carpet in the rental unit was installed just prior to the tenants moving in, and the tenants had attempted to clean the carpet using bleach. It had to be replaced after the tenancy ended.

The building manager also has a company which cleans as well as managing rental units, and charged the landlord \$250.00 for cleaning, however a copy of the invoice has not been provided for this hearing.

The rental unit was re-rented for August 1, 2018.

The landlord's witness testified that she has worked as building manager for the rental complex for about 25 years.

The carpet had been replaced and the walls painted just before the tenants moved in, and the rental unit was clean at move-in. The witness prepared a report, and one of the tenants participated in the inspection, and the witness believed she took it to the landlord's office, but a copy cannot be located.

At move-out, the witness used an unfamiliar form provided by the new landlord company, and used the wrong column to record the move-out condition portion. That was completed on June 30, 2018 and the tenants' forwarding address was provided on that form.

The tenant did not request return of the security deposit but verbally stated that he agreed with any deductions for cleaning. The tenant signed the form at the end of tenancy agreeing that the report fairly represented the condition of the rental unit. The form also shows: "Carpet must be cleaned/replaced? Will be charged to tenant security deposit." It also shows that the tenant agreed to deductions from the security deposit, however no amount is noted, but is signed by a tenant and a landlord.

The witness also testified that the cost to replace carpet or refinish the hardwood under the carpet was the same, and the landlord chose to refinish the hardwood rather than replace the carpet.

The witness also has a company for cleaning services and charged the landlord company \$250.00 for cleaning the rental unit at the end of the tenancy. Junk removal was completed by another company on July 9, 2018.

Analysis

Where a party makes a monetary claim for damage or loss, the claiming party must establish that the damage or loss exists, that it exists because of the other party's failure to comply with the *Residential Tenancy Act* or the tenancy agreement, and the amount of such damage or loss. The *Act* requires a tenant to repair any damage caused by the tenant and to leave a rental unit reasonably clean and undamaged at the end of the tenancy. The *Act* also states that the move-in and move-out condition inspection reports are evidence of the condition of the rental unit at the beginning and end of the tenancy. Although the move-in condition inspection report is not available, I accept the undisputed testimony of the landlord's agent and the witness that the rental unit was clean at the beginning of the tenancy, and that the report provided for this hearing contains errors that have been explained. I accept that the portion completed relates to the move-out condition, not the move-in condition.

It is clear that the tenants did not leave the rental unit reasonably clean, and the landlord's witness testified that she did the cleaning after the tenants departed and charged the landlord \$250.00 for that service. I am satisfied that the landlord has established the \$250.00 claim for cleaning.

No where in the condition inspection report does it indicate that there was any garbage or debris to remove from the rental unit after the tenants departed, or that baseboards had to be replaced. The report simply shows that some of the walls were not clean. On a balance of probabilities, I accept that the carpet had to be removed and I accept the claim of \$516.75, however there is no evidence of the condition of the hardwood under the carpet at move-in or move-out.

However, I do accept the testimony of the landlord's witness that the tenant agreed that the landlord could keep the entire security deposit for cleaning, and I find that the carpet was a part of that, albeit beyond cleaning. Although the form has not been completed properly, the explanations of the landlord's agent and witness are credible and appear legitimate. I am not satisfied that the landlord has established a monetary claim for any other damages.

Having found that the landlord has established the \$250.00 claim for cleaning and \$516.75 for removing the carpet, I order the landlord to keep the \$700.00 security deposit in partial satisfaction.

Since the landlord has been partially successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee, and I grant a monetary order in favour of the landlord as against the tenants in for the difference in the amount of \$166.75.

Conclusion

For the reasons set out above, I hereby order the landlord to keep the \$700.00 security deposit and I grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$166.75.

This order is final and binding and may be enforced.

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 31, 2018

Residential Tenancy Branch