



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDLS, MNRLS, FFL

Introduction

This hearing was convened as a result of the landlords' Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") for a monetary order for damages to the unit, site or property, to retain the tenant's security deposit and/or pet damage deposit, for unpaid rent or utilities, and to recover the cost of the filing fee.

Landlord RS ("landlord") attended the teleconference hearing and gave affirmed testimony. During the hearing the landlord was given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing ("Notice of Hearing") application and documentary evidence were considered. The landlord testified that the Notice of Hearing and application were served on the tenant by registered mail with signature required on March 8, 2018 and that the mail was addressed to the tenant at the address found on a piece of paper in the rental unit. The registered mail tracking number has been included on the cover page of this decision for ease of reference. According to the online registered mail tracking website the registered mail package was signed for and accepted by the tenant on March 13, 2018. I find the tenant was served with the Notice of Hearing, application and documentary evidence on March 13, 2018 which is the date the tenant signed for and accepted the registered mail package. Therefore, the hearing continued without the tenant present and as such, I consider this application to be unopposed by the tenant.

Preliminary and Procedural Matter

The landlord requested that the decision be sent by regular mail. As a result, the decision and any applicable orders will be sent by regular mail to the landlords. In addition, the tenant will be sent the decision by regular mail as there was no email address listed in the application for the tenant.

Issues to be Decided

- Are the landlords entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenant's security deposit and/or pet damage deposit under the *Act*?
- Are the landlords entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on October 1, 2014. The landlord testified that the tenant vacated the rental unit on February 15, 2018. During the tenancy monthly rent was \$950.00 per month and was due on the first day of each month. The monthly rent did not increase during the tenancy. The tenant paid a security deposit of \$475.00 which the landlords continue to hold.

The landlords are claiming a total of \$2,618.75 which is comprised as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Unpaid ½ month rent for February 2018	\$475.00
2. Loss of March 2018 rent due to condition of rental unit	\$950.00
3. Pictures for claim	\$38.69
4. Flooring – master bedroom	\$133.75
5. Underlay for flooring	\$64.32
6. Blinds for room 1	\$16.97
7. Blinds for room 2	\$18.97
8. Repair holes	\$23.49
9. SD card for security camera removed by tenant 1	\$16.88
10. SD card for security camera removed by tenant 2	\$14.99
11. Solar light on driveway	\$44.99
12. Registered mail	\$11.34
13. Baseboards for missing areas	\$50.00
14. Floor vent covers (5 x \$5.69)	\$28.45
15. Wall panels (2 x \$30.00)	\$60.00
16. Paint for trim and walls (2 x \$29.00)	\$58.00
17. Replace live rat trap provided for rental unit	\$59.99
18. Replace burned out or missing light bulbs	\$50.00
19. Curtain rods (6 x \$5.99)	\$35.94
20. Plywood to repair damaged door of chicken shed	\$40.00
21. Replace missing smoke detectors (2 x \$30.99)	\$61.98
22. Gate lock	\$15.00
23. Flooring in living room	\$150.00
24. Curtains	\$100.00
25. Remove garbage in yard	\$100.00
TOTAL	\$2,618.75

Regarding item 1, the landlord testified that the tenant failed to pay ½ of February 2018 before the tenant vacated the rental unit and owes \$475.00 in unpaid rent as a result.

Regarding item 2, the landlord affirmed that due to the damage caused by the tenant to the rental unit that the landlords were unable to re-rent the rental unit for March 2018 and therefore suffered a loss of rent for March 2018 in the amount of \$950.00. In addition, the landlord stated that the tenant vacated the

rental unit without written notice to end the tenancy and owes March 2018 rent for that reason alone. The landlord stated that the tenant's new address was found on a piece of paper in the rental unit but that the piece of paper was not a written forwarding address from the tenant it was just papers left behind by the tenant which happened to include her new address and did not indicate that it was her written forwarding address to which to return the security deposit or any indication that the tenant was vacating the rental unit. The landlord stated that the tenant abandoned the rental unit after sending a message through Facebook to the landlords.

Regarding item 3, the landlords have claimed \$38.69 for the cost of the photos prepared for this hearing which was dismissed during the hearing as the landlord was advised that there is no remedy under the *Act* for the cost of preparing evidence for the dispute resolution process.

Regarding item 4, the landlords have claimed \$133.75 for the cost of damaged master bedroom flooring. The landlords submitted in evidence both the incoming condition inspection report ("CIR") and the outgoing CIR and colour photos in support of this portion of their claim. The incoming CIR indicates that the master bedroom flooring was in good condition at the start of the tenancy. The landlord stated that the photo evidence supports that the tenant removed the carpet without permission of the landlord and that the landlord suffered a loss as a result. The landlords submitted a receipt for the amount claimed for this portion of their claim. The landlord noted that the outgoing CIR described the damage to the carpet.

Regarding item 5, the landlords have claimed \$64.32 for the cost of underlay for the portion of the carpet that was removed by the tenant. The landlords submitted a receipt for the amount claimed for this portion of their claim. The landlord noted that the outgoing CIR described the damage to the flooring in the master bedroom.

Regarding items 6 and 7, the landlords have claimed \$16.97 and \$18.97 for two sets of blinds for two rooms where the blinds had dog bites from the tenant's dogs. The landlords submitted a receipt for the amount claimed for these portions of their claim. The condition CIR supports this portion of the landlords' claim also.

Regarding item 8, the landlords have claimed \$23.49 for the cost to repair holes that appeared to be holes caused by chewing by the tenant's dog. The landlord stated that she bought putty to fill the holes so they could be painted. The landlords submitted a receipt for the amount claimed for this portion of their claim and the CIR supports this portion of the landlords' claim.

Regarding items 9 and 10, the landlords have claimed \$16.88 and \$14.99 for two security camera SD digital storage cards that were removed by the tenant according to the landlord. The landlords stated that both security cameras each had one SD camera installed and that when the tenant vacated the rental unit, both were missing and the only person that could have taken them would be the tenant. The landlords submitted a receipt for the amount claimed for these portions of their claim.

Regarding item 11, the landlords have claimed \$44.99 for the cost to replace a stolen solar light that the landlord stated was installed for the tenant at the entrance to the driveway so the tenant could see the driveway better at night. The landlord testified that the tenant took the solar light upon vacating and that it cost \$44.99 to replace the solar light. The landlord also stated that at no time did the landlords give

permission for the tenant to keep the solar light. The landlords submitted a receipt for the amount claimed for this portion of their claim.

Regarding item 12, the landlords have claimed \$11.34 for the cost of registered mail which was dismissed during the hearing. The landlord was advised that there is no remedy under the *Act* for the cost of serving documents for the dispute resolution process.

Regarding item 13, 14, 15 and 16 the landlords have claimed \$50.00 to replace missing baseboards; \$28.45 to replace five missing floor diffusers valued at \$5.69 each; two wall panels to repair wall damage valued at \$30.00 per panel; and two cans of paint to repaint damage trim and walls that the landlord stated were chewed by the tenant's dog. The landlord referred to a website and receipts in support of these portions of her claim and indicated that the CIR supports these parts of their claim.

Regarding item 17, the landlords have claimed \$59.99 to replace a stolen live rat trap provided for use at the rental unit. The landlord testified that the tenant was not given the live trap or given permission to take it with her at the end of the tenancy. As a result, the landlord considers the live trap stolen by the tenant and referred to a photo submitted in evidence which shows the live trap in the rental unit during the tenancy and a popular store website showing the value of the live trap that the landlord stated it was purchased at.

Regarding item 18, the landlords have claimed \$50.00 for the cost to replace twenty light bulbs that were either missing or burned out after the tenant vacated the rental unit. The landlord stated that some of the light bulbs such as the one in the bathroom were \$6.99 each and that there were three of those types of bulbs that were missing and burned out. The landlords did not submit a receipt for the bulbs however the landlord stated that she has kept the amount low as a result and that in fact she spent more than that amount to replace the missing and damaged light bulbs. The CIR supports the missing and burned out light bulbs.

Regarding item 19, the landlords have claimed \$35.94 to replace six missing curtain rods. The landlord stated that they do not know why the tenant removed the curtain rods but the CIR does support the missing curtain rods and a receipt was submitted in evidence to support the amount claimed. The landlord also referred to supporting photo evidence.

Regarding item 20, the landlords have claimed \$40.00 to repair a chicken shed door that the tenant cut in half without the landlords' permission. The landlords submitted a receipt for the \$40.00 piece of plywood that the landlord stated was used to repair the damaged chicken shed door. Photo evidence was presented to show the damaged chicken shed door.

Regarding item 21, the landlords have claimed \$61.98 to replace two missing smoke detectors valued at \$30.99 each. The landlord testified that the tenant removed both of the smoke detectors without the landlords' knowledge or consent and referred to photo evidence which shows the missing smoke detectors. The CIR also supports the missing smoke detectors and a receipt was submitted in evidence in support of this portion of the landlords' claim.

Regarding item 22, the landlords have claimed \$15.00 for the cost to replace the missing gate lock. The CIR also supports the missing smoke detectors and a receipt was submitted in evidence in support of this portion of the landlords' claim.

Regarding item 23, the landlords have claimed \$150.00 for the cost to repair flooring that the landlord stated was damaged by the tenant beyond reasonable wear and tear. The landlord referred to photo evidence and website information that supports the amount being claimed. The CIR also supports the damage to the living room flooring.

Regarding item 24, the landlords have claimed \$100.00 to replace curtains that the landlord stated were removed by the tenant without permission of the landlords. The landlord referred to website information in support of the value of the curtains, photo evidence of the curtains shown at the start of the tenancy and missing at the end of the tenancy, and the CIR which supports that the curtains were missing.

Regarding item 25, the landlords have claimed \$100.00 to remove all of the garbage left behind by the tenant that should have been removed at the end the tenancy according to the landlord. While the landlord did not submit a receipt for the garbage removal the landlord described the photo evidence which the landlord stated showed a lot of garbage left behind which the landlords were forced to remove.

Analysis

Based on the undisputed documentary evidence before me and the undisputed testimony of the landlord provided during the hearing, and on the balance of probabilities, I find the following.

As I have accepted that the tenant was served with the Notice of Hearing, application and documentary evidence and did not attend the hearing, I consider this matter to be unopposed by the tenant. As a result, I find the landlord's application is fully successful except for items 3 and 12 mentioned above of which there is no remedy under the *Act*. For all other items except 3 and 12, I find the evidence supports the landlords' claim and are reasonable. I also find that the tenant breached section 37 of the *Act* which requires the tenant to leave the rental unit reasonably clean and undamaged except for reasonable wear and tear. I find the tenant failed to leave the rental unit reasonably clean and damaged the areas claimed by the landlord beyond reasonable wear and tear.

In addition, I find the tenant breached section 26 of the *Act* which requires a tenant to pay rent on the date that it is due in accordance with the tenancy agreement which is why I am granting the landlords \$475.00 for the ½ of February 2018 rent that the tenant failed to pay before vacating.

Also, I find the tenant breached section 45(1) and 45(4) of the *Act* which states:

45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

(4) A notice to end a tenancy given under this section must comply with section 52 [form and content of notice to end tenancy].

[My emphasis added]

I find the tenant failed to provide sufficient notice to end the month to month (periodic) tenancy as required by section 45(1) of the *Act*. I also find that sending a Facebook message is not sufficient to end a tenancy and that a notice to end tenancy must be given in the accordance with the requirements of section 52 of the *Act* which is stated in section 45(4) of the *Act*. Therefore, I find the tenant owes the landlords \$950.00 for loss of March 2018 rent due to insufficient notice.

As the landlords' claim had merit, I grant the landlords the recovery of the cost of the filing fee in the amount of **\$100.00** pursuant to section 72 of the *Act*.

Based on the above, I find the landlords have met the burden of proof in proving a monetary claim of **\$2,668.72** as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Unpaid ½ month rent for February 2018	\$475.00
2. Loss of March 2018 rent due to condition of rental unit	\$950.00
3. Pictures for claim	Dismissed
4. Flooring – master bedroom	\$133.75
5. Underlay for flooring	\$64.32
6. Blinds for room 1	\$16.97
7. Blinds for room 2	\$18.97
8. Repair holes	\$23.49
9. SD card for security camera removed by tenant 1	\$16.88
10. SD card for security camera removed by tenant 2	\$14.99
11. Solar light on driveway	\$44.99
12. Registered mail	Dismissed
13. Baseboards for missing areas	\$50.00
14. Floor vent covers (5 x \$5.69)	\$28.45
15. Wall panels (2 x \$30.00)	\$60.00
16. Paint for trim and walls (2 x \$29.00)	\$58.00
17. Replace live rat trap provided for rental unit	\$59.99
18. Replace burned out or missing light bulbs	\$50.00
19. Curtain rods (6 x \$5.99)	\$35.94
20. Plywood to repair damaged door of chicken shed	\$40.00
21. Replace missing smoke detectors (2 x \$30.99)	\$61.98
22. Gate lock	\$15.00
23. Flooring in living room	\$150.00
24. Curtains	\$100.00

25. Remove garbage in yard	\$100.00
26. Filing fee	\$100.00
TOTAL	\$2,668.72

As the landlords continue to hold the tenant's \$475.00 security deposit and pursuant to sections 38 and 72 of the *Act*, I authorize the landlords to retain the tenant's full security deposit of \$475.00 which has accrued \$0.00 in interest, in partial satisfaction of the landlords' monetary claim. I grant the landlords a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlords in the amount of **\$2,193.72**.

I **caution** the tenant to comply with sections 26, 45, and 37 of the *Act* in the future.

Conclusion

The landlords' application is mostly successful.

The landlords have been authorized to retain the tenant's full security deposit of \$475.00 including \$0.00 in interest, in partial satisfaction of the landlords' monetary claim. The landlords have been granted a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlords in the amount of \$2,193.72. The landlords must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 10, 2018

Residential Tenancy Branch