



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BONAVISTA MANAGEMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL MNDL-S

Introduction

This hearing was scheduled to convene at 1:30 p.m. on September 14, 2018 by way of conference call concerning an application made by the landlord seeking a monetary order for damage to the unit, site 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 tenant for the cost of the application.

The landlord was represented at the hearing by an agent, who gave affirmed testimony and was accompanied by a building manager who also gave affirmed testimony. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call.

The landlord's agent testified that the tenant provided a forwarding address in writing on the move-out condition inspection report, but did not know the postal code and promised to advise the landlord of that at a later date. However, the tenant ceased contact with the landlord. The landlord's agent attempted to locate a postal code, and was advised by Canada Post that the address was not valid. The landlord's agent obtained another address, and the tenant was served with the Landlord Application for Dispute Resolution and notice of this hearing (the Hearing Package) by registered mail on April 11, 2018 at that address, and has provided a copy of a Canada Post tracking print-out confirming that date. It also shows that the package was returned to sender on May 3, 2018.

The landlord's agent testified that on May 7, 2018 the package was delivered to the tenant personally by another agent of the landlord who was allowed in by the property manager and escorted to the tenant's new rental unit, and that the agent personally knows the tenant and recognized him as the proper party to be served. However the Proof of Service document signed by that person shows that "The package was put through the mail slot

on the apartment door,” on May 7, 2018, but that is not a method sanctioned by the *Residential Tenancy Act*.

The landlord has also provided evidence of emailing the hearing documents to the tenant on April 10, 2018, but that is not a method sanctioned by the *Act*.

The *Residential Tenancy Act* specifies that documents served by registered mail are deemed to have been received 5 days later. The landlord has provided proof of sending the Hearing Package by registered mail to an address given by Canada Post. The landlord also testified that the property manager at the new rental unit of the tenant confirmed that the tenant resided there. I accept that testimony and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

All evidence of the landlord has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenant 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 is the property manager and testified that this fixed term tenancy began on April 1, 2014 and reverted to a month-to-month tenancy after March 31, 2015, which ultimately ended on January 31, 2018. Rent in the amount of \$1,520.00 per month was payable on the 1st day of each month, which was raised from time-to-time to \$1,655.00 per month, and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$760.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is an apartment in a complex, and the landlord's agent also resides in the complex. A copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord's agent further testified that the tenant moved into the rental unit with his mother when the tenant was 14 years old. In April, 2014 the tenant's mother was taken off the tenancy agreement, and the tenant stayed as a tenant in the rental unit with his girlfriend. The tenant brought in interior designers and painted the rental unit blue and grey and added door knobs to cabinets without the landlord's knowledge, which was noticed during an inspection. The rental units are a white colour, and the landlord had last

painted the rental unit in 2012. The tenancy agreement prohibits unauthorized alterations, and the tenant signed a "Painting Agreement," a copy of which has been provided for this hearing. It is dated April 2, 2014 and is signed by the tenants on April 4, 2018, and states that the tenant's mother had painted walls and cupboards, and added doorknobs on the kitchen cabinets without the landlord's prior approval, and asks that the tenants sign the agreement acknowledging that they take full responsibility and agree to pay for painting to the original colours at the end of the tenancy.

The parties participated in a move-in and a move-out condition inspection report, a copy of which has been provided as evidence for this hearing. The move-out portion is not dated, however the landlord's agent testified that it was completed on January 31, 2018. The tenant also agreed in writing that the landlord could keep the security deposit and a copy of a Security Deposit Refund form has been provided for this hearing. It is dated January 31, 2018 and shows "Deductions" of

- \$140.00 for 7 hours of cleaning at \$20.00 per hour;
- \$546.84 for hardwood floor refinishing;
- \$840.00 for painting walls and kitchen cabinets;

The total is \$1,526.84 and is signed by the tenant and initialled by each charge. Invoices have also been provided by the landlord for this hearing.

The landlord's witness is the building manager and testified that when the tenant's mother decided to move out and have her son take on the tenancy, the landlord's agents asked if she was going to bring it back to its original condition, but the tenant liked it. The landlord's agents asked the tenant to sign the document pertaining to painting, which he signed on April 4, 2014.

The tenant's girlfriend was also named in the tenancy agreement, however the tenants parted ways and the landlord doesn't know where the girlfriend went. The tenant named in this application was the tenant who participated in the move-out condition inspection.

Analysis

In the Security Deposit Refund form, the tenant agreed to the following deductions from the security deposit:

- \$140.00 for cleaning;
- \$546.84 for hardwood floor refurbishing; and
- \$840.00 for painting.

I find that the landlord has established those claims, totaling \$1,526.84. Since the landlord has been partially successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

I order the landlord to keep the \$760.00 security deposit in partial satisfaction of the claim and I grant a monetary order in favour of the landlord for the difference in the amount of \$866.84.

Conclusion

For the reasons set out above, I hereby order the landlord to keep the \$760.00 security deposit and I grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$866.84.

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: September 20, 2018

Residential Tenancy Branch