



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, MNDCL-S, FFL

Introduction

On June 28, 2018, the Landlords applied for a Dispute Resolution proceeding seeking a Monetary Order for compensation for lock re-keying, garage remotes, broken items, cleaning, and removal of items pursuant to Section 67 of the *Residential Tenancy Act* (the “*Act*”), seeking to apply the security deposit towards these debts pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlords attended the hearing and the Tenant attended the hearing as well, with M.C. as her agent. All in attendance provided a solemn affirmation.

The Landlords stated that they served the Tenant a Notice of Hearing package and evidence by hand on June 29, 2018 and the Tenant confirmed that she received this package. In accordance with Sections 89 and 90 of the *Act*, and based on this undisputed testimony, I am satisfied that the Tenant was served the Landlords’ Notice of Hearing package and evidence.

The Landlords also advised that they served the Tenant with additional evidence and a USB stick containing videos on October 18, 2018. The Tenant confirmed that she received this evidence and was able to view the contents of the USB stick. As this evidence was served in accordance with Rule 3.14 of the Rules of Procedure and as the Tenant could view the contents of the USB stick, I have accepted this evidence and considered it when rendering this decision.

The Tenant advised that she served the Landlord with her evidence by registered mail sometime in October and the Landlords confirmed receiving this on October 16, 2018.

As this evidence was served in accordance with Rule 3.15 of the Rules of Procedure, I have accepted this evidence and considered it when rendering this decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to compensation for lock re-keying, garage remotes, broken items, cleaning, and removal of items?
- Is the Landlord entitled to apply the security deposit towards these debts?
- Is the Landlord entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on May 1, 2018 and the tenancy ended when the Tenant vacated the rental unit on June 1, 2018. The tenancy was a result of the Tenant selling the rental unit to the Landlords and re-renting the property for a month. Rent was established at \$3,500.00 per month, due on the first day of the month. A security deposit of \$1,750.00 was also paid.

The Landlords advised that neither a move-in inspection nor a move-out inspection report was conducted with the Tenant.

All parties agreed that a forwarding address was provided via text message on June 14, 2018.

The Landlords submitted that they were seeking compensation for the replacement and rekeying of locks of **\$352.70** and replacement of the garage door openers of **\$103.47** as the Tenant did not return the keys or the garage door openers at the end of the tenancy. They stated that they showed up on the day of possession and the Tenant returned one key only, but nothing else. They advised that a gate key and a basement key were not returned, and they gave the Tenant a few hours to return the keys; however, after a

couple of hours, the keys were not returned so they hired a locksmith to re-key the rental unit. The Landlords submitted an invoice for the lock re-keying and advised that they would not seek compensation for the garage door openers if the Tenant was to return them.

The Tenant stated that she cleaned the rental unit on May 31, 2018 and returned on June 1, 2018 to do an inspection with the Landlords; however, she did not bring back all of the keys. She testified that she was tired from cleaning the night prior and forgot to bring back all the keys. She advised that she returned home to get the remainder of the keys and texted the Landlords to inform them that she would be returning with the keys, but it would take awhile due to how far away her home was. She stated that when she arrived back at the rental unit, a locksmith was already there re-keying the locks. She submitted that she was afraid to contact the Landlords, so she just left. The Tenant agreed that she would return the garage door openers to the Landlords.

The Landlords submitted that they were seeking compensation in the amount of **\$87.98** for a broken toilet lid. He stated that the toilet lid was broken and falling off, that he did not have a receipt for a new toilet lid, and that this amount was an online quote for a replacement.

The Tenant stated that the Landlords refused to conduct a move-in or move-out inspection report, that the condition of the rental unit was the same at the beginning of the tenancy as the end of the tenancy, and that this broken toilet lid was due to reasonable wear and tear.

The Landlords submitted that they were seeking compensation in the amount of **\$89.00** for the cost to steam clean the carpets and they referred to pictures submitted into evidence which substantiates that the carpets were not cleaned at the end of the tenancy.

The Tenant advised that she did steam clean the carpets and that the Landlords saw her do so on May 31, 2018; however, the Landlords dispute that this happened.

The Landlords submitted that they were seeking compensation in the amount of **\$226.98** because the rental unit was not cleaned sufficiently at the end of the tenancy. They stated that they hired cleaners "to do hours and hours of cleaning" because the kitchen fan vents were clogged with grease and the shower was not cleaned. As well, the washing machine and dryer needed to be cleaned as well. They stated that they

hired two cleaners for six hours worth of work to rectify this issue; however, they did not provide a receipt for this work.

The Tenant advised that her and her partner “did [their] best to clean” and in addition, she hired two cleaning ladies to help her. She stated that the house was 27 years old. She also stated that she did not know when the pictures the Landlord submitted were taken and she does not believe they reflect the condition of how the rental unit was left. She stated that she lived in the house for only a year, that she did not cook much, and she assumed that her cleaners would have cleaned the rental unit.

The Landlords submitted that they were also seeking compensation in the amount of **\$692.74** for the cost to replace speakers, a tv mount, a motion sensor light, a curtain rod, curtains, and a computer glass cover as the Tenant removed these items from the rental unit at the end of the tenancy.

Both parties disagreed on who these items belonged to due to the sale and transfer of the rental unit.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

With respect to the Landlords’ claims for damages, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, “It is up to the party who is claiming compensation to provide evidence to establish that compensation is due”, that “the party who suffered the damage or loss can prove the amount of or value of the damage or loss”, and that “the value of the damage or loss is established by the evidence provided.”

Regarding the Landlords’ claim for re-keying the locks, I find it important to note that Section 37 of the *Act* states that the Tenant must give the Landlord “all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.”

The undisputed evidence is that the Tenant lived in the rental unit and was allegedly cleaning it on May 31, 2018. It does not make sense to me why the Tenant would think

it was logical to take all of the keys and the garage door openers with her back to her new home that was apparently a considerable distance away that night, as opposed to leaving them at the rental unit. Furthermore, she stated that she texted the Landlords that she would be returning with the keys on June 1, 2018; however, when she arrived back at the rental unit with the keys, she stated that she was afraid to contact the Landlords, so she just left. This also does not make sense to me as she had been previously texting the Landlords about the keys, so it is not clear to me why she would not have advised them even by text that she was at the rental unit and had their keys. Finally, the Tenant stated several times that she was holding onto the Landlords' property because they would not conduct a move-out inspection. Based on these reasons, I am skeptical that the Tenant forgot to return the keys and I find it more likely than not that the Tenant was doing this intentionally. As such, I find that the Landlords have established a claim in the amount of **\$352.70** to re-key the locks of the rental unit.

With respect to the garage door openers, I **Order** that the Tenant return them within **one week** of the date of this decision. If the Tenant does not comply with this Order, then the Landlords are at liberty to re-apply against the Tenant for compensation.

Regarding the Landlords' claims in the amount of **\$87.98** for a broken toilet lid, the Landlords are required to conduct move-in and move-out inspection reports. In the absence of these, I am not satisfied that this claim should be awarded. As such, I dismiss this claim in its entirety.

With respect to the Landlords' claim in the amount of **\$89.00** for the cost to steam clean the carpets, it is clear when hearing from the parties that they have blurred the lines in this particular situation, as it was originally a sale agreement that turned into a tenancy. This is a matter that should have been determined in the contract of purchase and sale of the property. Otherwise, at the start of the tenancy, the Landlords should have provided the Tenant with steam cleaned carpets and the onus would have then been on the Tenant to steam clean the carpet at the end of the tenancy, if necessary. Based on the evidence before me, I am not satisfied that there is enough evidence before me to substantiate that this situation falls within the scope of the *Act*, and I dismiss this claim in its entirety.

Regarding the Landlords' claim of **\$226.98** for cleaning of the rental unit, I find it important to note that Section 37 of the *Act* states that the Tenant must "leave the rental unit reasonably clean". While the Tenant submitted that it was unclear when the pictures that were submitted were taken, I do not find it reasonable that the amount of dirt, grease, and uncleanness could have built up so quickly. As such, I do not find that the

Tenant cleaned the rental unit sufficiently enough, and as a consequence, I find that the Landlords have established a claim in the amount of **\$226.98** to clean the rental unit.

With respect to the Landlords' claim in the amount of **\$692.74** for the cost to replace speakers, a tv mount, a motion sensor light, a curtain rod, curtains, and a computer glass cover as the Tenant removed these items from the rental unit at the end of the tenancy, as noted above, it is clear that the lines between the sale and the tenancy have been blurred. While the parties contend that there are emails between their realtors with respect to the chattels and fixtures, in my view, these are items that are subject to the contract of purchase and sale of the property. As such, I am satisfied that I do not have jurisdiction under the *Act* over these items, and I dismiss this portion of the Landlords' claim in its entirety.

As the Landlords were partially successful in their claims, I find that the Landlords are entitled to recover the \$100.00 filing fee paid for this application. Under the offsetting provisions of Section 72 of the *Act*, I allow the Landlord to retain a portion of the security deposit in satisfaction of the debts outstanding.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Tenant a Monetary Order as follows:

Calculation of Monetary Award Payable by the Landlords to the Tenant

Lock re-keying	\$352.70
Cleaning	\$226.98
Filing fee	\$100.00
Security deposit	-\$1,750.00
TOTAL MONETARY AWARD	\$1,070.32

Conclusion

The Tenant is provided with a Monetary Order in the amount of **\$1,070.32** in the above terms, and the Landlords must be served with **this Order** as soon as possible. Should the Landlords 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.

In addition, I **Order** the Tenant to return the garage door openers, fully functioning, within **one week** of the date of this decision. If the Tenant does not comply with this Order, then the Landlords are at liberty to re-apply against the Tenant for compensation.

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: November 9, 2018

Residential Tenancy Branch