



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDL-S, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords filed under the *Residential Tenancy Act* (the “*Act*”), for a monetary order to recover unpaid rent, for compensation for damages, for permission to retain the security deposit, and to recover the cost of the filing fee for this application. The matter was set for a conference call.

One of the Landlords attended the hearing and was affirmed to be truthful in her testimony. As the Tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. The Landlord testified that Tenant T.F. was served the documents by registered mail, a Canada post tracking number was provided as evidence of service. Section 90 of the *Act* determines that a document served in this manner is deemed to have been served five days later. I find that the Tenant T.F. had been duly served in accordance with the *Act*. The Landlord testified that Tenant E.C. was personally served the Notice of Dispute Resolution Hearing documentation.

The Landlord was provided with the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter is described in this Decision.

Issues to be Decided

- Is the Landlord entitled to a monetary order for unpaid rent?
- Is the Landlord entitled to monetary compensation for damages under the *Act*?

- Is the Landlord entitled to retain the security deposit?
- Is the Landlord entitled to the return for their filing fee for this application?

Background and Evidence

The undisputed testimony of the Landlord was that the tenancy began on July 30, 2015, as a month to month tenancy. Rent in the amount of \$850.00 was to be paid by the first day of each month and at the outset of the tenancy, the Tenants paid a \$4250.00 security deposit and a \$425.00 pet damage deposit (the "Deposits"). The Landlord provided a copy of the tenancy agreement into documentary evidence.

The Landlord testified that without written notice the Tenants move out of the rental unit on September 6, 2018. The Landlord testified that the Tenant T.F. returned the keys to the rental unit to her and provided her with a written letter giving the Landlord permission to keep the Deposits, due to outstanding rent and cleaning that was required in the rental unit. The Landlord submitted a copy of the letter into documentary evidence.

The Landlord testified that in the letter the Tenant agreed that they owed \$2,125.00 in outstanding rent; consisting of \$425.00 for July, \$850.00 for August, and \$850.00 for September 2018, and that they agreed that the rental unit had not been cleaned when they left and that they owed the Landlord the cost of having the rental unit cleaned.

The Landlord testified that it cost her \$500.00 to have the rental unit cleaned. The Landlord submitted a copy of the receipt for the cleaning into documentary evidence.

The Landlord also testified that the blinds in the rental unit had to be replaced at the end of tenancy as the Tenants' dog had destroyed them. The Landlord testified that the blinds had been brand new at the beginning of this tenancy and that it had cost her \$883.68 to have them replaced. The Landlord submitted a copy of the receipt for the new blinds into documentary evidence.

The Landlord is requesting to recover the outstanding rent for July, August, and September 2018 and for the recovery of her cleaning and blind replacement costs.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I accept the undisputed testimony of the Landlord that the Tenants moved out of the rental unit on September 6, 2018, without providing written notice. I also accept the testimony of the Landlord that the Tenants had not pay the rent for July, August, and September 2018 as required by their tenancy agreement.

Rules about payment and non-payment of rent

26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I find that the Tenants breached section 26 of the *Act* when they did not pay the rent in accordance with the tenancy agreement. Therefore, I find that the Landlord has established an entitlement to recover the outstanding rent for the months of July, August, and September 2018. I award the Landlord the recovery of the \$2,125.00 in outstanding rent.

Additionally, I accept the undisputed testimony of the Landlord that the Tenants left the rental unit in an unclean state when they returned the rental unit to the Landlord. Section 37(2) of the *Act* requires that a tenant return the rental unit reasonably clean at the end of the tenancy.

Leaving the rental unit at the end of a tenancy

37 (2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and
- (b) 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.

I find that the Tenants breached section 37 of the *Act* when they returned the rental unit to the Landlord uncleaned. I also find that the Landlord has provided sufficient documentary evidence to show that she suffered a loss of \$500.00 due to the unclean condition of the rental unit at the end of the tenancy. Therefore, I award the Landlord the return of the cleaning cost in the amount of \$500.00.

I also accept the undisputed testimony of the Landlord that the Tenants' dog destroyed the window blinds in the rental unit. Section 32(3) of the *Act* states that a Tenant must repair any damage to the rental property that was caused during their tenancy.

Landlord and tenant obligations to repair and maintain

32 (3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

I find that the Tenants were in breached section 32 of the *Act* when they returned the rental unit to the Landlord in a damaged state at the end of the tenancy.

Awards for compensation due to damage are provided for under sections 7 and 67 of the *Act*. A party that makes an application for monetary compensation against another party has the burden to prove their claim. The Residential Tenancy Policy Guideline #16 Compensation for Damage or Loss provides guidance on how an applicant must prove their claim. The policy guide states the following:

“The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. To determine whether compensation is due, the arbitrator may determine whether:

- A party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- Loss or damage has resulted from this non-compliance;
- The party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- The party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

I accept the Landlords' testimony that she paid \$883.68 to have the window blinds replaced. In determining the suitable award, I must refer to the Residential Tenancy Branch guideline # 40 Useful Life of Building Elements. The guideline sets the useful life of window blinds at 10 years.

I accept the undisputed testimony of the Landlord that the window blinds had been brand new at the beginning of this tenancy on July 30, 2015. Therefore, I find that the window blinds were two years old at the end of this tenancy. Accordingly, I find that the Landlord has proven the entitlement of the recovery of 80% of the replacement costs of the window coverings, in the amount of \$706.94.

Additionally, section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was partially successful in her application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application.

I grant the Landlord a monetary order of \$2,581.94, consisting of \$2,125.00 in outstanding rent, 500.00 in the recovery of cleaning costs, \$706.94 in the recovery of costs to replace window blinds and the recovery of the \$100.00 filing fee for this hearing, less the \$850.00 security deposit that the Landlords are holding for this tenancy.

Conclusion

I find for the Landlords pursuant to sections 38, 67 and 72 of the Act. I grant the Landlords a **Monetary Order** in the amount of **\$2,581.94**. The Landlords are provided with this Order in the above terms, and the Tenants must be served with this Order as soon as possible. Should the Tenants 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.

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: January 8, 2019

Residential Tenancy Branch