



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: FFL MNDCL-S MNDL-S MNRL-S

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("the *Act*") for:

- a monetary order for unpaid rent and compensation for monetary loss or money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The tenant confirmed receipt of the landlords' application for dispute resolution hearing and evidence. In accordance with section 89 of the *Act*, I find that the tenant was duly served with the landlords' application. All parties confirmed receipt of each other's evidentiary materials, and that they were ready to proceed.

Issue(s) to be Decided

Are the landlords entitled to monetary compensation for unpaid rent and losses?

Are the landlords entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This fixed term tenancy began on November 1, 2017, and ended on November 30, 2018 pursuant to an undisputed 1 Month Notice for Cause issued to the tenant on October 25, 2018. Monthly rent was set at \$1,200.00, payable on the 1st day of each

month. The landlords collected a security deposit of \$600.00, which the landlords still hold.

The landlords indicated at the beginning of the hearing that they were withdrawing their claim for utilities in the amount of \$198.60. Accordingly, this portion of the landlords' claim is cancelled.

The landlords are requesting monetary compensation as follows:

Repair & Painting	\$294.00
Carpet Cleaning	136.50
Cleaning	120.00
Photos	13.42
Total Monetary Award Requested	\$563.92

The landlords testified that the tenant failed to leave the rental unit in reasonably clean and undamaged condition when she moved out. The landlords included a quote for painting in the amount of \$294.00. The landlords testified that the tenant had left plastic plugs on the walls, and did not remove the plugs before mudding them. The landlords testified that the home was last repainted in 2016, which the tenant stated was only done for the main floor of the townhome. The landlords testified that at the time of the hearing he had not been able to have his painter repaint the home as the painter was busy.

The landlords also made a monetary claim for carpet cleaning. The landlords testified that the rugs and carpet were dirty and contained an odour, which can be attributed to the tenant's dog. The landlords included receipts to support their claim.

The landlords also submitted a claim for cleaning, which was done by the landlords' wife's cleaning company. The landlord confirmed that the bathroom and refrigerator were cleaned, but submitted photos to show that the tenant failed to thoroughly clean the entire rental unit.

The landlords submitted photos as well as the condition inspection reports in support of their claim.

The landlords' witness, MO, testified in this hearing as he was the manager. MO testified that the walls required repainting, and that the windows and floors were dirty. MO testified that when the carpets were cleaned, the water was black.

The tenant disputed the above claims, stating that the rental unit was not clean at the beginning of the tenancy. The tenant gave undisputed testimony that the landlord had offered a rent reduction in the amount of \$200.00 to address this. The tenant also questioned the credibility of the landlords' witness MO as she said MO was never previously introduced to her as a manager, and is more of a friend than a manager. The landlords testified that MO helped provide services in exchange for reduced rent. The tenant questioned the reliability of the move-in inspection report as it makes no mention of the true condition of the rental unit, as reflected by the \$200.00 rent reduction offered to her. The tenant testified that the carpets were clean when she had moved out.

The tenant admitted that there were some plugs in the walls, but not 16. The tenant also testified that she had removed and filled the walls properly as her boyfriend was a carpenter. The tenant disputes the validity of the photos submitted by the landlords as they are not date stamped, and the tenant believes that the photos were taken prior to her moving out. The tenant also disputes the cleaning claim, as she feels she had cleaned the home properly.

Analysis

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss

Section 37(2)(a) of the *Act* stipulates that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. I find that the landlord provided sufficient evidence to show that the tenant did not take reasonable care and attention when vacating the suite. I find that the landlords complied with sections 23 and 35 of the *Act* by performing condition inspection reports for both the move-in and move-out. I also find that the landlords supported their claims with detailed documentation, including quotes and invoices.

I am satisfied that the landlords have provided sufficient evidence to support that the tenant failed to take care and attention in leaving the walls in undamaged condition. Section 40 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. I will use this guideline to assess the remainder of the useful life of the interior painting. As per this policy, the useful life of interior paint is four years. The rental unit

was repainted in 2016, and therefore at the end of the tenancy had approximately 2 years of useful life left. I note that the tenant testified that the home was only partially painted in 2016, but I am satisfied that the landlords had supported that the majority of the painting was completed on or around that time, and the quote submitted to be reasonable and fair. Accordingly I will use this information in my calculations. The approximate prorated value of the remainder of the useful life of the interior painting is \$147.00. ($\$294.00/48 \times 24$). Accordingly, I find the landlords are entitled to \$147.00 for the painting and wall repairs.

I am also satisfied that the landlords had sufficiently supported their claims for cleaning and carpet cleaning. Although I acknowledge that the tenant had made some effort to clean the home, I find the landlords had supported their claim that the home was not cleaned properly. I accept the undisputed evidence that the home was not in reasonably clean condition at the beginning of the tenancy, which was addressed with a rent reduction by the landlords. This fact does not excuse the tenant's responsibilities at the end of the tenancy to leave the home in reasonably clean condition. Accordingly, I allow the landlords' monetary claims of \$120.00 and \$136.50.

I allow the landlords to recover the filing fee for their application. The landlords also submitted a claim for the cost of the photos for this dispute. As section 72 of the *Act* only allows for the recovery of the filing fee, and not other associated costs of filing an application, this portion of the landlords' monetary claim is dismissed without leave to reapply.

The landlords continue to hold the tenant's security deposit of \$600.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlords to retain a portion of the tenant's security deposit in satisfaction of the monetary claim.

Conclusion

The landlords' claim for utilities was cancelled by the landlords in this hearing.

I allow the landlords a monetary award in the amount of \$403.50 as set out in the table below. I allow the landlords to retain a portion of the tenant's security deposit in satisfaction of their monetary claim. The remainder of the tenant's security deposit is to be returned to the tenant. The tenant will be provided a Monetary Order in the amount of \$196.50 for the return of their security deposit. The tenant is provided with this Order, and the landlord(s) must be served with a copy of this Order as soon as possible. Should the landlord(s) 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.

The remainder of the landlords' monetary claim is dismissed without leave to reapply.

Repair & Painting	\$147.00
Carpet Cleaning	136.50
Professional Cleaning	120.00
Less Security Deposit held by landlords	-600.00
Total Monetary Order to Tenant	\$196.50

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: May 9, 2019

Residential Tenancy Branch