



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Woodbine Townhomes
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **FFL MNDL-S**

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (“*Regulation*”) or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

The landlord’s agent (“the landlord”) appeared at the hearing and was given the opportunity to make submissions as well as present affirmed testimony and written evidence.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional ten minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant were provided.

The landlord provided affirmed testimony that the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on February 21, 2019 and deemed received by the tenant under section 90 of the *Act* five days later, that is, on February 26, 2019.

The landlord provided the Canada Post Tracking Number in support of service to which I refer on the cover page. Pursuant to sections 89 and 90, I find the landlord served the

tenant with the Notice of Hearing and Application for Dispute Resolution on April 20, 2018.

Issue(s) to be Decided

Is the landlord entitled to the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act, Residential Tenancy Regulation ("Regulation")* or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

Background and Evidence

The landlord provided testimony that the tenancy agreement with the tenant began on March 1, 2015 and ended when the tenant vacated on January 31, 2019. Rent was \$1,400.00 a month payable at the first of the month. The landlord submitted a copy of the tenancy agreement as evidence which contains a clause (section 14) that the tenant was not permitted to paint any part of the unit without obtaining prior permission from the landlord. The tenant provided a security and pet deposit ("security deposit") in the amount of \$1,100.00 which the landlord holds.

The landlord filed an Application for Dispute Resolution on February 13, 2019.

The landlord testified that a condition inspection was conducted on moving in and moving out. The landlord submitted a copy of the report as evidence. The unit is noted to be in good condition in all relevant aspects on moving in. On moving out, the report noted that the unit required cleaning, painting, and repairs; as well, blinds were missing.

In her notice to vacate the unit, a copy of which the landlord submitted as evidence, the tenant instructed the landlord to contact her father (telephone number provided) to schedule the inspection on moving out.

The landlord testified the landlord attempted several times to contact the tenant and her father to arrange for a move out inspection and was unable to contact either of them. The landlord testified to issuing and serving a Notice of Final Opportunity to Schedule a Condition Inspection pursuant to the Act prior to the end of the tenancy by posting on the tenant's door. The tenant did not attend the move out inspection.

The landlord claimed that when the tenant moved out, it was noted that the unit required cleaning and tenant had painted the walls without the landlord's permission, contrary to the terms of the tenancy agreement. The landlord testified the colors were unacceptable to the landlord. The landlord submitted photographs of several walls in the unit. The landlord testified the landlord incurred expenses in cleaning the unit and painting the walls; the landlord submitted receipts for all claimed expenses.

The landlord also noted that blinds were missing from the living room and dining room which the landlord replaced. The landlord incurred the expense of replacing the blinds and submitted receipts in support of this claim.

The landlord testified that the carpets required cleaning and the landlords retained the services of a carpet cleaner. The landlord submitted a copy of the receipt for this expense.

The landlord stated the landlord was required to replace a damaged bifold door. The landlord submitted a copy of the receipt in support of this claim.

The landlord submitted many photographs taken at the time of the condition inspection report on moving out illustrating the need of the unit's painting, cleaning and repairs to which the landlord testified and for which the landlord submitted corresponding receipts.

The landlord submitted receipts for all the landlord's claims, all the deficiencies in the unit having been noted on the condition inspection report on moving out.

The landlord's claim is summarized as follows:

ITEM	AMOUNT
Cleaning and painting costs	\$787.50
Paint	\$69.83
Paint	\$125.00
Living room blinds – replacement	\$175.31
Dining room blinds – replacement	\$75.01

Carpet cleaning	\$63.00
Bifold door – replacement	\$40.00
Total Monetary Award Requested by Landlord =	\$1,335.65

The landlord requested reimbursement of the filing fee of \$100.00.

The landlord requested authorization to apply the security deposit of \$1,100.00 to the monetary award.

The landlord's request for a monetary order is summarized as follows:

ITEM	AMOUNT
Monetary award for damages and compensation – set out above	\$1,335.65
Reimbursement filing fee	\$100.00
(Less security deposit)	(\$1,100.00)
Total Monetary Award Requested by Landlord =	\$335.65

Analysis

I have considered all the submissions and evidence presented to me, including those provided in writing and orally. I will only refer to certain aspects of the submissions and evidence in my findings.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy agreement or the *Act*, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

The purpose of compensation is to put the person who incurred the damage or loss in the same position as if the damage or loss had not occurred. The person claiming compensation must establish **all** the following four points:

1. The existence of the damage or loss;

2. The damage or loss resulted directly from a violation – by the other party – of the *Act*, regulations, or tenancy agreement;
3. The actual monetary amount or value of the damage or loss; and
4. Everything reasonable was done to reduce or minimize (mitigate) the amount of the loss or damage as required under section 7(2) of the *Act*.

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. In this case, the onus is on the landlords to prove the landlord is entitled a claim for a monetary award.

In this case, the onus is on the landlord to prove the landlord is entitled a claim for a monetary award.

I have considered all the evidence submitted by the landlord, including the receipts, the photographs showing the unit needed cleaning, painting and repairs, and the condition inspection report on moving in and moving out, although the tenant did not attend the moving out inspection although provided with opportunity and Notice to do so.

Considering the evidence and testimony, I find the landlord has met the burden of proof on a balance of probabilities that the unit needed cleaning, painting and repairs when the tenant vacated, the tenant is responsible for the lack of cleanliness and the need for painting and repairs, the landlord incurred **\$1,335.65** in expenses, and the landlord took all reasonable steps to mitigate expenses. I find the landlord is entitled to a monetary award in the amount requested of **\$1,335.65** for this aspect of the claim.

Therefore, I grant the landlord a monetary award in the amount of **\$1,335.65**.

As the landlord has been successful in this matter, I award the landlord reimbursement of the filing fee in the amount of \$100.00.

Pursuant to section 72, I authorize the landlord to apply the security deposit to the monetary award.

I grant a monetary order to the landlord in the amount of **\$335.65**. My award to the landlord is summarized as follows:

ITEM	AMOUNT
Monetary award for damages and compensation – details set out above	\$1,335.65
Reimbursement filing fee	\$100.00
(Less security deposit)	(\$1,100.00)
Total Monetary Order =	\$335.65

Conclusion

The landlord is entitled to a monetary order in the amount of **\$335.65**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) to be 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: June 09, 2019

Residential Tenancy Branch