



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 was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for a monetary claim of \$2,702.00 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement – claiming against the security deposit, and to recover the cost of their filing fee.

The Landlord, J.W., appeared at the teleconference hearing and gave affirmed testimony. No one appeared on behalf of the Tenant, therefore, I enquired about the service of the Landlord's Application and documentary evidence on the Tenant. The Landlord said she sent two packages to the Tenant via registered mail and she provided Canada Post tracking numbers for these packages. Pursuant to sections 88 and 90, I find that the packages were deemed served on the Tenant five days after they were mailed.

The teleconference phone line remained open for over 20 minutes and was monitored throughout this time. The only person to call into the hearing was the Landlord, who indicated that she was ready to proceed. I confirmed file records, which support that the Tenant did not make any attempt to cancel the hearing prior to the hearing. I have also confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Landlord.

I explained the hearing process to the Landlord and gave her an opportunity to ask questions about the hearing process. During the hearing the Landlord provided her evidence orally and responded to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this decision. At the outset of the hearing, I advised the Landlord that pursuant to Rule 7.4, I would only consider her written or documentary evidence to which she pointed or directed me in the hearing.

Preliminary and Procedural Matters

The Landlord provided her email address at the outset of the hearing and confirmed her understanding that the decision would be emailed to the Landlord and mailed to the Tenant, and any orders would be sent to the appropriate Party.

Issue(s) to be Decided

- Is the Landlord entitled to a monetary order, and if so, in what amount?
- Is the Landlord entitled to recovery of the Application filing fee?

Background and Evidence

The Landlord testified that the periodic tenancy began on December 1, 2018, with a monthly rent of \$1,400.00, due on the first day of each month. The Landlord said that the Tenant paid \$400.00 of a \$700.00 security deposit, and did not pay any of the \$700.00 pet damage deposit. The Landlord said the tenancy ended on January 31, 2019, and that the Tenant gave her forwarding address in a letter dated February 7, 2019. The letter would have been deemed received by the Landlord on February 12, 2019 pursuant to section 90 of the Act. The Landlord applied for dispute resolution on February 26, 2019.

In the hearing, the Landlord said that the Parties completed a condition inspection report ("CIR") with both the move-in and the move-out portions completed. The Tenant signed the move-in, but not the move-out portion of the CIR. The Landlord testified that she offered to do the move-out condition inspection whenever the Tenant wanted to do it; however, the Tenant never responded to the Landlord in this regard. The Landlord said she provided the Tenant with a written notice that the condition inspection could be done any time on January 31, 2019. This notice directed the Tenant to call the Landlord to make an appointment or to attend the Landlord's associate's residence in the unit below the rental unit to finalize the walk-through. The hours set out for this were from 8:00 a.m. to 7:00 p.m.; nevertheless, the Tenant did not respond.

The Landlord submitted a Monetary Order Worksheet with four items for a total monetary claim of \$2,702.00. The Monetary Order Worksheet lists the following items claimed by the Landlord:

	Receipt/Estimate From	For	Amount
1	Landlord	General cleaning	\$212.00
2	Construction company	Wall preparation	\$900.00
3	Construction company	Garbage clean up	\$520.00
4	Still owing, see receipts	Utilities, deposits owing	\$1,070.00
		Total monetary order claim	\$2,702.00

General Cleaning

The Landlord submitted an invoice for cleaning the rental unit, which set out the number of hours to do the following cleaning jobs, billing at \$25.00 per hour.

Hours	Item cleaned	Rate	Total
3	Fridge, stove, bathtub, tiles, floor in kitchen	\$25.00	\$75.00
2	Bathroom	\$25.00	\$50.00
1.5	Floors	\$25.00	\$37.50
2	Stairs washed with vinegar due to pet urine	\$25.00	\$50.00
		Total	\$212.50

Wall Preparation

The Landlord submitted a handwritten note with the following information on it:

Feb 11 – 16, 5 hrs – 6 – 30/hr

Mud, sand, prime paint \$900

4522A [street number]

[indcipherable signature]

There was no header or footer on the paper indicating a construction company name.

Garbage Clean-up

The Landlord submitted a handwritten note with the following information on it:

To whom it may concern

Here is an itemized list of work that went into 4522A and B units, my invoices and what I layed witness to.

[Rental unit address]

-drywall repairs to protect/integrity of wall around windows in 3 bedrooms from damage caused by industrial size nails and hooks, and living room main wall.

-mud, sand, prime paint each wall – 5 hrs

-removal of garbage from property – 2 hrs Plus \$120

-removal of urine saturated rug in entrance of unit & replace - 1 hr

-removal of dog feces, 1 Lg bag feces – 1 hr

Two hrs + 120 dump fees

400 + 120 = \$520

[Signature]

Utilities, Deposits Owing

The Landlord submitted a table of contents for her documentary evidence, and this listed document “4” as the proof of the electricity not being paid, the damage deposit still owing, and the pet damage deposit still owing. Document four was a hand written form that set out the following:

Tenant's name

Rental unit address

Rent Jan 2019 1400.00

Dam. Dep paid 150.00 [+400.00]

Owing:

Hydro – 220.00

Dam Dep 150.00

Pet dep 700.00

Total 1,070.00

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

General Cleaning

Based on the Landlord's undisputed evidence of the condition of the rental unit, I find her cleaning invoice to contain a reasonable hourly rate and an expected amount of cleaning done. Therefore, I award the Landlord **\$212.50** for the cost of cleaning the rental unit.

Wall Preparation

The Landlord said that the last time the rental unit was painted was in 2009.

Policy Guideline #40 ("PG #40") is a general guide for determining the useful life of building elements for determining damages. The useful life is the expected lifetime, or the acceptable period of use of an item under normal circumstances. If an arbitrator finds that a landlord makes repairs to a rental unit due to damage caused by the tenant, the arbitrator may consider the age of the item at the time of replacement and the useful life of the item when calculating the tenant's responsibility for the cost of the replacement.

In PG #40, the useful life of interior paint is four years, and the rental unit was five years beyond the time for a new coat of paint.

Most of the Landlord's photographs were of cigarette butts and dog feces in the yard of the residential property. I did not go through all of the photographs, as the Landlord only pointed me to a select few. On a random review of the photographs, very few were of the inside of the rental unit.

In the hearing, the Landlord pointed me to specific pictures that "will show the biggest damage to the windows". However, these photographs show holes in the walls indicative of someone having hung draperies or pictures or art of some kind.

Section 32 of the Act states:

(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.

(4) A tenant is not required to make repairs for reasonable wear and tear.

Section 37(2)(a) of the Act requires tenants to leave rental units “reasonably clean, and undamaged except for reasonable wear and tear”.

The evidence before me is that the Tenant caused holes in the walls no larger than those used to hang pictures and artwork. I find that these holes form part of normal wear and tear that the Tenant was not obliged to repair. As a result, I dismiss the Landlord’s claim in this regard without leave to reapply.

Garbage Clean-up

The Landlord provided a number of photographs of garbage left around the residential property. However, the invoice the Landlord submitted for this claim also includes work associated with preparing the walls for painting, which claim I have already dismissed. However, if I pull out the references that apply to garbage collection and removal, the total comes to three hours plus a \$120.00 dump fee, for a total of \$195.00. Based on the evidence before me overall, I find that this is a reasonable amount and I award the Landlord **\$195.00** for garbage clean-up.

Utilities Owing

Section 46(6) of the Act states:

(6) If

- (a) a tenancy agreement requires the tenant to pay utility charges to the landlord, and
- (b) the utility charges are unpaid more than 30 days after the tenant is given a written demand for payment of them,

the landlord may treat the unpaid utility charges as unpaid rent and may give notice under this section.

The Landlord included a number of items in her list identified as utilities owing. The receipt given to the Tenant included rent, deposits and utilities owing. Since the tenancy is over, I find that it is too late to collect the amount owing on the security and pet damage deposits. Further, the Landlord did not provide a copy of the rental

agreement or anything indicating that the Tenant agreed to be responsible for the utilities. Neither is there an unpaid utilities bill before me with the rental unit address. Accordingly, I dismiss this claim without leave to reapply.

I note, however, the Landlord's evidence in this regard indicates that the Tenant paid the Landlords an additional \$150.00 of the \$300.00 owing on the security deposit.

Summary

Based on the evidence before me overall, I have awarded the Landlord with \$212.50 for cleaning costs, \$195.00 for garbage removal, and I award the Landlord with recovery of the \$100.00 Application filing fee for a total monetary award of **\$507.50**.

I authorize the Landlord to retain the \$507.50 from the Tenant's \$550.00 security deposit in full satisfaction of this award.

Conclusion

The Landlord's claim for compensation for damage or loss against the Tenant is successful in the amount of \$507.50.

The Landlord has established a monetary claim of \$507.50. I authorize the Landlord to retain this much from the Tenant's \$550.00 security deposit in full satisfaction of the claim. I order the Landlord to immediately pay the Tenant the \$42.50 balance of the security deposit. I award the Tenant a monetary order of \$42.50 in satisfaction of this outcome.

This decision is final and binding on the Parties, unless otherwise provided under the Act, and 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 27, 2019

Residential Tenancy Branch