



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND-S, FF

Introduction

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

- a monetary order for damage pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided testimony. Both parties confirmed the landlords served the tenant with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail. Both parties also confirmed the tenant did not submit any documentary evidence. I accept the undisputed evidence of both parties and find that both parties have been sufficiently served as per section 90 of the Act.

Issue(s) to be Decided

Are the landlords entitled to a monetary order for damage and recovery of the filing fee?
Are the landlords entitled to retain all or part of the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on October 15, 2018 on a fixed term tenancy until October 14, 2016 and then thereafter on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated September 29, 2015. The monthly rent was \$1,350.00 payable on the 1st day of each month. A security deposit of \$675.00 and a pet damage deposit of \$100.00 were paid on September 29, 2015.

Both parties confirmed that the submitted copy of the condition inspection report was not signed for the move-in portion, but that the move-out portion was signed by both parties in section "Z" and not sections "2" or "3" as required in the End of Tenancy Inspection Report.

The landlords seek a monetary claim of \$675.00 which consists of a \$750.00 claim for cleaning. The landlords clarified that they understood that they were only seeking \$675.00 of the \$750.00 cleaning claim.

The landlords claim that the tenant vacated the rental unit leaving it dirty, with abandoned personal items and a damaged front yard. The landlords have submitted copies of 20 photographs of the rental unit condition at the end of tenancy, a cleaning bill, an estimate for repair of the front lawn and an incomplete condition inspection report for the move-in and move-out. The landlords claim for cleaning is 30 hours of work at \$25.00 an hour which equals \$750.00.

The tenant disputes the landlords claims stating that although the rental was vacated somewhat dirty, it would not require 30 hours of cleaning. During the hearing the tenant commented that the condition inspection report for the move-out was completed in which the landlord only made check marks on the report. The tenant claims that the hand written notation were added without her knowledge or consent.

The landlord, D.M. confirmed the tenant's comments in which she did add the written notations to the condition inspection report for the move-out without the tenant.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

In this case, I accept the evidence of both parties and find that the landlords have failed to establish a claim for \$675.00 for cleaning. This claim is based upon a self-generated invoice by the landlord for \$750.00 is without support. The tenant conceded that some cleaning was required, but has argued that it would not take 30 hours as claimed by the landlords. The landlords relied solely on their direct testimony to justify the 30 hours of cleaning in conjunction

with the submitted photographs. A review of the submitted photographs fail to provide sufficient evidence of cleaning work that requires 30 hours.

However, the tenant did confirm that the rental was left dirty requiring cleaning. As such, I find that the landlord is entitled to a nominal award for cleaning costs of \$350.00. This I find based upon the tenant's direct testimony regarding feces in the house and after reviewing the submitted photographs provided by the landlord. The photographs fail to provide sufficient evidence of a "deep clean" required as characterized by the landlords.

The landlords having been partially successful are entitled to recovery of the \$100.00 filing fee.

The landlords have established a total monetary claim of \$450.00. As such, I order that the landlord retain the \$450.00 claim from the \$675.00 security currently held and return the remaining \$225.00 to the tenant.

Conclusion

The tenant is granted a monetary order for \$225.00.

This order must be served upon the landlords. Should the landlords fail to comply with the order, the order may be filed in the Small Claims 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: August 23, 2019

Residential Tenancy Branch