



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CYCLONE HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S, FFL

Introduction

On June 11, 2019, the Landlord made an Application for Dispute Resolution seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “*Act*”), seeking to apply the security deposit towards these debts pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

E.N. attended hearing as an agent for the Landlord; however, the Tenants did not make an appearance. E.N. provided a solemn affirmation.

He advised that he served a Notice of Hearing and evidence package to each Tenant by registered mail on June 20, 2019 (the registered mail tracking numbers are on the first page of this decision). Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenants were deemed to have received the Landlord’s Notice of Hearing and evidence package five days after it was mailed.

All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order for compensation?

- Is the Landlord entitled to apply the security deposit towards these debts?
- Is the Landlord entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

E.N. advised that the tenancy started on November 15, 2015 and the tenancy ended when the Tenants vacated the rental unit on May 30, 2019. He stated that rent was established at \$1,328.00 per month, due on the first day of each month. A security deposit of \$625.00 and a pet damage deposit of \$625.00 were also paid. A copy of the signed tenancy agreement was submitted as documentary evidence.

He submitted that a move-in inspection report was conducted with the Tenants on November 15, 2015 and this signed report was submitted as documentary evidence. He advised that the Tenants participated in a move-out inspection report on May 30, 2019 and a signed copy of this report was submitted as documentary evidence.

He stated that the Tenants provided a forwarding address in writing on the move-out inspection report on May 30, 2019. He testified that \$330.38 of the security deposit was returned to the Tenants within 15 days of May 30, 2019 and the Application was made to keep the balance of the security deposit on June 11, 2019. As well, the entire pet damage deposit was returned to the Tenants within 15 days of May 30, 2019.

He advised that the Landlord was seeking compensation in the amount of **\$50.00** for the cost to clean the rental unit. He stated that the Tenants left the stove top dirty, that there was food splatter in the kitchen, that there was dust on the ceiling fan, and that the bathroom was dirty. The amount that the Landlord is seeking constitutes two hours of cleaning at \$25.00 per hour to return the rental unit to a re-rentable state. He indicated that the deficiencies are marked on the move-out inspection report, he referenced pictures submitted as documentary evidence, and he cited the cleaning cost invoice to support this claim.

He also advised that the Landlord was seeking compensation in the amount of **\$160.00** for the cost to dispose of items that the Tenants left behind at the end of the tenancy.

He stated that the Tenants left behind a shelf, refuse on the stairs, a microwave oven, curtains, chairs, a table, and a couch. He warned the Tenants about the items left behind and gave them an opportunity to return to the rental unit to dispose of these items, but the Tenants never returned. He referenced pictures of these items submitted as documentary evidence, he provided a daily log demonstrating that he contacted the Tenants about these items, and he stated that the \$160.00 that the Landlord is seeking is comprised of six hours of labour costs.

Finally, he advised that the Landlord was seeking compensation in the amount of **\$84.62** for the cost to replace broken blinds in the rental unit. He stated that the blinds were drawn up during the move-out inspection, so the damage was not noticeable then. He submitted pictures to document this damage and the invoice for the cost to replace the blinds to corroborate this damage.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

Section 38(1) of the *Act* requires the Landlord, within 15 days of the end of the tenancy or the date on which the Landlord receive the Tenants' forwarding address in writing, to either return the deposits in full or file an Application for Dispute Resolution seeking an Order allowing the Landlord to retain the deposits. If the Landlord fails to comply with Section 38(1), then the Landlord may not make a claim against the deposits, and the Landlord must pay double the deposits to the Tenants, pursuant to Section 38(6) of the *Act*.

The undisputed evidence is that a forwarding address in writing was provided to the Landlord on the move-out inspection report on May 30, 2019. As the Landlord was entitled to claim against the security deposit, as the Landlord returned a portion of the security deposit, as the Landlord made an Application to keep the remainder of the security deposit, and as the Landlord returned the pet damage deposit in full all within 15 days of receiving the Tenants' forwarding address in writing pursuant to the *Act*, I find that the doubling provisions do not apply to the deposits.

With respect to the Landlord's claim for compensation, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that 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, and that it is up to the party claiming compensation to provide evidence to establish that compensation is warranted. In essence, to determine whether compensation is due, the following four-part test is applied:

- Did the Tenants fail to comply with the *Act*, regulation, or tenancy agreement?
- Did the loss or damage result from this non-compliance?
- Did the Landlord prove the amount of or value of the damage or loss?
- Did the Landlord act reasonably to minimize that damage or loss?

Regarding the Landlord's claims, the first one I will address is the cost associated with cleaning the rental unit. E.N. has provided a copy of the inspection reports where the Tenants have signed to acknowledge that they agree that the report "fairly represents the condition of the suite." Furthermore, the report clearly indicates that cleaning of the rental unit was required. Based on this undisputed evidence, the pictures, and E.N.'s solemnly affirmed testimony with respect to the cost of the cleaning, I am satisfied that he has substantiated this claim. Consequently, I find that the Landlord should be granted a monetary award in the amount of **\$50.00** to satisfy this claim.

With respect to the Landlord's claim for the cost associated with disposal of refuse and items left by the Tenants at the end of the tenancy, E.N. provided a copy of the inspection reports indicating that the Tenants have signed to acknowledge that they agree these items were left behind and he submitted a daily log of contact with the Tenants about these items. Based on this undisputed evidence, the pictures, and E.N.'s solemnly affirmed testimony with respect to the cost of disposal, I am satisfied that he has substantiated this claim. As such, I find that E.N. established that the Landlord should be granted a monetary award in the amount of **\$160.00** to cover the cost of disposal of these items.

Finally, regarding the Landlord's claim for the cost associated with replacing the blinds, E.N. has provided pictures demonstrating this damage and the invoice for the cost to replace the blinds. Based on this undisputed evidence and E.N.'s solemnly affirmed testimony, I am satisfied that he has substantiated this claim. Ultimately, I find that the Landlord should be granted a monetary award in the amount of **\$84.62** to rectify this claim.

Pursuant to Sections 67 and 72 of the *Act*, I allow the Landlord to retain the portion of the security deposit that was not returned in satisfaction of these debts outstanding.

As the Landlord was successful in their claims, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

The Landlord is provided with a Monetary Order in the amount of **\$100.00** 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: October 2, 2019

Residential Tenancy Branch