



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD
 MNDL-S, FFL

Introduction

This teleconference hearing was scheduled in response to applications by both parties under the *Residential Tenancy Act* (the “Act”). The Tenant applied for monetary compensation and for the return of the security deposit. The Landlord applied for compensation for damages, to retain the security deposit towards compensation owed, and for the recovery of the filing fee paid for the Application for Dispute Resolution.

The Landlord was present for the hearing while no one called in for the Tenant during the approximately 21 minutes that the phone line was monitored. The Landlord was affirmed to be truthful in his testimony and confirmed that the Tenant was served with a copy of the Notice of Dispute Resolution Proceeding package and a copy of the Landlord’s evidence.

The Landlord stated that he received a forwarding address from the Tenant on June 18th which was an address with no unit number. However, the Landlord stated that he attended the address in person and left the package for the Tenant at the front desk and was told that the package would be passed to the Tenant. I accept the testimony of the Landlord regarding service and find that the Tenant was sufficiently served for the purposes of this *Act* pursuant to Section 71. I also note that the Tenant would have been aware of the hearing date and time due to the Tenant’s own Application for Dispute Resolution.

The Landlord also confirmed receipt of the Notice of Dispute Resolution Proceeding package regarding the Tenant’s application, as well as a copy of the Tenant’s evidence.

I have considered all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary Matters

As stated by rule 7.3 of the *Residential Tenancy Branch Rules of Procedure*, if a party does not attend the hearing, the hearing may continue, or the application dismissed. As the Tenant did not attend the hearing, the Tenant's application is dismissed, without leave to reapply. This decision will address the Landlord's application which will include a decision about whether or not the security deposit should be returned to the Tenant.

Issues to be Decided

Is the Landlord entitled to monetary compensation for damages?

Should the Landlord be authorized to retain the security deposit towards compensation owed?

Should the Landlord be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

Background and Evidence

The Landlord provided undisputed testimony on the tenancy which was confirmed by a copy of the tenancy agreement submitted into evidence. The tenancy began on May 31, 2019 and was for an initial fixed term of one month. Rent in the amount of \$900.00 was due on the last day of each month. The Tenant paid a security deposit of \$450.00 at the start of the tenancy, of which the Landlord still holds. The tenancy ended on June 11, 2019.

The Landlord is seeking compensation in the amount of \$410.00. He stated that as soon as the Tenant moved in there were issues with the tenancy. The Landlord testified that he spoke to the Tenant about the issues. He also stated that on June 11, 2019 he spoke to the Tenant's advocate regarding the concerns. He stated that the Tenant's advocate spoke to the Tenant and the Tenant moved out on or around June 11, 2019. The Landlord noted that no notice to end tenancy was served to the Tenant and that he

did not ask the Tenant to leave, instead providing a warning only. Instead, the Landlord stated that the Tenant moved out on his own free will.

A copy of a Condition Inspection Report was submitted into evidence and was signed by both parties at move-in. The report was signed by the Landlord only at move-out and the Landlord stated that the Tenant was not present for the move-out inspection as the Landlord did not have any contact information for the Tenant until receipt of the forwarding address on June 18, 2019. The move-out report was signed by the Landlord on June 11, 2019.

The Landlord stated that there was a significant amount of cleaning required in the rental unit and is claiming \$150.00 for cleaning costs. He stated that they expect to complete some cleaning when tenants moved out, so the charge of \$150.00 is the amount of cleaning that was required over and above the standard cleaning costs. The Landlord submitted an 'extra charge' invoice from the residential property dated June 12, 2019 showing an amount owing of \$150.00.

The Landlord is also claiming \$260.00 for the cost of replacing the desk and linens in the room that were damaged. The Landlord submitted photos of the desk that was in the furnished rental unit showing what appears to be paint stains. The Landlord stated that they attempted to clean the desk but were unable to, so purchased a used desk for \$100.00.

The Landlord also submitted photos of sheets and towels showing stains from what also appears to be paint. The Landlord broke down the replacement costs as follows:

Queen bed spread:	\$95.00
Queen sheet:	\$20.00
Hand towels:	\$10.00
Bath towels:	\$30.00
Facecloth:	<u>\$ 5.00</u>
Total:	\$160.00

The Landlord referenced a document signed by the Tenant at the start of the tenancy which was also included in evidence. This document provides a list of replacement

costs for the linens provided and it is noted on the document that it was received from the Tenant on May 31, 2019.

Analysis

As stated in Section 37 of the *Act*, a tenant must leave a rental unit reasonably clean and undamaged at the end of the tenancy. I accept the undisputed testimony of the Landlord that the rental unit was not left reasonably clean and therefore find that the Tenant should compensate the Landlord for the resulting loss.

I find that the amount of \$150.00 charged for cleaning is reasonable and therefore award this amount to the Landlord. I accept the photos submitted into evidence that show stains/marks on the linens and on the desk and therefore find that the Landlord needed to replace these items as they were unable to be cleaned. I also accept that the Landlord took steps to mitigate their loss by attempting to clean the items first.

I find that the Tenant was aware of the amount that would be charged for the damaged linens due to the itemized cost list provided at the start of the tenancy and therefore accept the amounts claimed as per this list. I award the Landlord \$100.00 for the replacement desk and \$160.00 for the replacement linens.

As the Landlord was successful with the application, pursuant to Section 72 of the *Act*, I also award the recovery of the filing fee in the amount of \$100.00.

Regarding the security deposit, Section 38(1) of the *Act* states that a landlord has 15 days from the later of the date the tenancy ends or the date the forwarding address is provided in writing to return the security deposit or file a claim against it. I accept the Landlord's testimony that the tenancy ended on June 12, 2019 and the Tenant's forwarding address was provided on June 18, 2019.

Therefore, I find that the Landlord had 15 days from June 18, 2019 to return the deposit or file an application to retain the deposit. As the Landlord filed the Application for Dispute Resolution on June 24, 2019, he applied within the time allowable under the *Act*. Therefore, the Landlord was in compliance with Section 38(1) and does not owe the Tenant double the deposit pursuant to Section 38(6) of the *Act*. The Landlord may retain the security deposit towards compensation owed and is awarded a Monetary Order in the amount outlined below:

Cleaning	\$150.00
Desk	\$100.00
Linens	\$160.00
Filing fee	\$100.00
<i>Less security deposit</i>	<i>(\$450.00)</i>
Total owing to Landlord	\$60.00

Conclusion

The Tenant's Application for Dispute Resolution is dismissed, without leave to reapply.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlord a **Monetary Order** in the amount of **\$60.00** as outlined above. The Landlord is provided with this Order in the above terms and the Tenant must be served with this Order as soon as possible. Should the Tenant 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 04, 2019

Residential Tenancy Branch