



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, FFT, MNDCL, FFL

Introduction

The Application for Dispute Resolution filed by the Tenants seeks a monetary order in the sum of \$2200 for double the security deposit.

The Application for Dispute Resolution filed by the landlords seeks the following:

- a. A monetary order in the sum of \$6928.
- b. An order to recover the cost of the filing fee.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing filed by each party was sufficiently served on the other. With respect to each of the applicant's claims I find as follows:

Issues to be Decided

The issues to be decided are as follows:

- a. Whether the tenants are entitled to the return of double the security deposit/pet deposit?
- b. Whether the landlords are entitled to a monetary order and if so how much?
- c. Whether the landlords are entitled to recover the cost of the filing fee?

Background and Evidence:

The parties entered into a written tenancy agreement that provided that the tenancy would start on September 1, 2018 and end on May 31, 2019. The rent was \$2200 per

month payable in advance on first day of each month. The tenant(s) paid a security deposit of \$1100.

The tenancy ended on May 31, 2019.

The tenant(s) provided the landlord with his/her their forwarding address in writing by mailing, by registered mail to where the landlords reside on June 17, 2019.

Law

The Residential Tenancy Act provides that a landlord must return the security deposit plus interest to the tenants within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing unless the parties have agreed in writing that the landlord can retain the security deposit, the landlord already has a monetary order against the tenants or the landlord files an Application for Dispute Resolution within that 15 day period. It further provides that if the landlord fails to do this the tenant is entitled to an order for double the security deposit.

Tenants Claim:

Analysis

The tenants paid a security deposit of \$1100 on September 1, 2018. I determined the tenancy ended on May 31, 2019. I further determined the tenants provided the landlord with their forwarding address in writing on June 17, 2019. The parties have not agreed in writing that the landlord can retain the security deposit. The landlord does not have a monetary order against the tenants and the landlord failed to file an Application for Dispute Resolution within the 15 days from the later of the end of tenancy or the date the landlord receives the tenants' forwarding address in writing. As a result I determined the tenants have established a claim against the landlords for double the security deposit or the sum of \$2200.

In summary I determined the Tenants have established a claim against the landlords in the sum of \$2200. .

Landlords Claim:

The Residential Tenancy Act provides the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant 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 and is liable to compensate the

landlord for failure to do so. In some instances the landlord's standards may be higher than what is required by the Act. The tenant is required to maintain the standards set out in the Act. The tenant is not required to make repairs for reasonable wear and tear. The applicant has the burden of proof to establish the claim on the evidence presented at the hearing.

Analysis:

I have carefully considered all of the evidence including the following:

- The oral testimony of both landlords.
- The oral testimony of one of the tenants SS
- A document including 60 pages of photos produced by the landlords
- A second document which includes 8 pages of photos produced by the landlords
- A 5 page document which was entitled Cross-Application Letter of Introduction produced by the landlords
- A 5 page document entitled Damages, Costs, Time spent cleaning
- Numerous other documents including the tenancy agreement, Addendum , text messages, emails etc.

The landlords testified that run a successful, excellently-reviewed, five-star Airbnb out of the apartment for the three years prior to this lease with the Applicants. It has garnered praise and recommendations from every single person who has ever used it, earning accolades for **CLEANLINESS** in the process. They have earned “Superhost” —a privileged standing that is awarded once certain stringent Airbnb conditions for a number of hospitality criteria have been CONSISTENTLY met (over the span of a year).

Within one week of the end of their lease the Airbnb business would be recommencing, as was explained NUMEROUS times to the Applicants, and at that point it would be critical for the apartment to appear JUST AS IT DID WHEN THEY STARTED THE TENANCY. The Applicants sign the “Additional Terms” to the tenancy agreement.

This apartment makes up a large percentage of our income as we are both self-employed. It is our biggest investment and vital to our financial security.

The tenancy agreement and Addendums reflect these responsibilities and includes the following:

“Additional Term:

1. **CLEANING:** the apartment **MUST** be maintained to a high level of cleanliness, particularly kitchen counters – which must be kept clean and stain-free at all times. The Tenant agrees, furthermore, to establish a cleaning schedule of, at least, once a month to main the floors and surfaces. Cleaning supplies and equipment will be supplied. Floors are to be vacuumed and mopped once a month, without fail.”

The oral testimony of the landlords reviewed the numerous photographs and gave support to their letter to the tenants dated June 13, 2019 outlining the problems with the lack of cleanliness in the rental unit and stating the following:

“Good Notes

1. I do think some of you tried to do a good job of cleaning
2. Toilets were well-cleaned
3. Beds were all still in good shape

Bad Notes

1. Front inside carpet is a write-off.
2. Outside doormat is a write-off.
3. The smell of burnt ghee is in **everything** and will have to be dealt with. Everything is grimy in the kitchen and covered with a film of oil.
4. Floors (kitchen and wood floors in kitchen and hallway) were thick with oil and it took three cleans to get it out
5. Stairs are **filthy**. Will need deep clean. Took me eight hours on my hands and knees to clean them, and three bottles of special Cleaner.
6. All floors and carpets have not been well cleaned. Baseboards in bedrooms still had pubic hair behind the headboards.
7. Large Spilled stain on carpet in Kiran’s room. Smells strongly of perfume. Can’t get stain or smell out. Ground-in greasy dirt from door to bed. Carpet is a write- off. Will need to be ripped out.
8. There is **RAT shit** on the back deck!
9. The state of the back deck was generally disgusting. Cigarette butts (!), dirt, and rat shit everywhere. Pieces of chewed gum stuck to the floor.
10. None of the windows have been cleaned.
11. There are stains and marks on the couch. Took me one hour to clean it.
12. Windowsill behind the couch is dirty with hair and debris.
13. Greasy handprints on the living room and green bedroom walls.
14. TV screen is smeared.
15. Living room coffee table was dirty and scratched with food still stuck to it.

16. Food inside the floor grate of green room. Red stain on carpet there.
17. Crusty, oily debris inside the refrigerator seals
18. Kitchen cupboards still had drips and stains on them
19. Concrete outside of front door had a trail of greasy dirt leading to the house
20. The bathtub was NOT well cleaned and there was black mould growing on the caulking
21. Pans were left unwashed (!!)
22. Unwashed knives still in the knife holder. Had to throw it away.
23. Cupboard under sink was disgustingly filthy
24. Cooking pans left with burn marks
25. Oven was not cleaned
26. Dishwasher broken
27. Stovetop broken twice
28. Small blue plate missing (presumed broken) from kitchen"

The tenant gave the following evidence:

- The landlords failed to conduct a Condition Inspection at the start and end of the tenancy.
- The carpets were dirty because there was considerable snow during the winter and people would be coming in and out.
- The blowing of the fuse was a technical problem which they are not responsible for.
- The landlords claims for cleaning is excessive.

With respect to each of the claims made by the landlords I find as follows;

- a. I dismissed the claims of the landlords in the sum of \$3150 for lost work (45 hours @\$60 + 15 hours @\$30) for the following reasons;
 - The claims are not foreseeable and are too remote.
 - The landlords failed to provide sufficient evidence to prove this loss.
- b. I dismissed the claims for time spent preparing cross-application (12 hours @ \$100). This claim involves a claim for the costs of preparing for and prosecuting litigation. The only jurisdiction an arbitrator has relating to costs is the cost of the filing fee if an applicant has paid the filing fee..
- c. I determined the landlords are entitled to \$1200 for the labour costs they incurred in cleaning the rental unit. I am satisfied based on all of the evidence that the tenants failed to sufficiently clean the rental unit to the standard required by the Residential Tenancy Act. I determined that the length of time claimed by the

landlord (60 person hours) is reasonable given the work that was done. I further determined that the hourly rate of \$20 per hour is more than reasonable.

d. In addition I determined the landlords have established a claim for the following costs:

- \$100 for the cost of cleaning supplies
- \$24.98 which includes \$9.99 for a brush and \$14.99 for special tar remover for a total of \$24.98
- \$15 for the replacement of a front door mat ruined beyond repair.
- \$20 for an outside doormat ruined beyond repair
- \$50 for the cost to repair and paint walls which the tenants put adhesive hooks on.
- \$300 for the cost of the depreciated value of replacing a carpet that was about 4 years old which was damaged by the tenants when they spilled blue laundry detergent over it.
- \$20 for the cost to replace a bathroom basket.
- \$227.50 for the cost of replacing a fuse for the induction stove. The landlords claimed \$200 and \$227.50 for the cost of replacing a fuse for the induction stove. The landlord testified the repairman told him the fuse broke because of the tenants failed to properly clean the stove or allow water on it. I determined the landlords are not entitled to the first time the repairman was called because it was not made clear to the tenants the cause of the problem. However, I determined the landlords are entitled to \$227.50 for the second visit of the repairman.
- \$52.50 for the cost to repair the dishwasher door.
- \$25 for the cost to replace a wooden knife block which was ruined because the tenants failed to properly clean the knives.
- \$15 for the cost to replace baking sheets
- \$8.95 for the cost to replace a ceiling tile.

In summary I determined the landlords have established a claim in the sum of \$858.93 for costs that they incurred to clean the rental property and fix damages caused by the tenants.

e. I determined the landlords are entitled to \$100 for the cost of the filing fee.

In summary I determined the landlords have established a claim against the tenants in the sum of \$2158.93 (\$1200 + \$858.93 + \$100 = \$2158.93).

Conclusion:

The tenants have established a claim against the landlords in the sum of \$2200. The landlords have established a claim against the tenants in the sum of \$2158.93. After setting off one claim against that of the other I ordered that the landlords pay to the Tenants the sum of \$41.07.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

This decision is final and binding on both parties.

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 28, 2019

Residential Tenancy Branch