



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL MNDCL MNDL-S MNRL

Introduction

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

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement 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; and,
- authorization to recover the filing fee for this application pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses and cross-examine witnesses.

Since both parties attended the hearing and submitted evidence for the hearing, I find that the parties were both sufficiently served pursuant to section 71(2)(c) of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72?

Background and Evidence

The parties agreed that the tenancy started on August 1, 2018 with a fixed one-year term ending on August 1, 2019. The monthly rent was \$1,800.00. The tenant paid the landlord a \$900.00 security deposit and a \$450.00 pet damage deposit. The landlord still retains both deposits.

The tenant provided written notice on June 14, 2019 that she was ending the tenancy on July 13, 2019. On June 19, 2019, the tenant sent an email stating that she had changed the moveout date to July 3, 2019.

The tenant testified that a condition inspection was performed on moveout and a condition inspection report was completed. The tenant presented a condition inspection report which signed by the landlord but it was not signed by the tenant. The condition inspection report stated that "we will deduct carpet cleaning & cleaning, 13 days for July. 754.83." The landlord testified that she did not participate in the condition inspection and more damages were found after the tenant vacated the rental unit.

The tenant also presented a written calculation stating that the tenant owed \$754.83 for unpaid rent on a per diem basis from July 1, 2019 to July 13, 2019. The landlord denied that this was an agreement. The landlord testified that this was merely the tenant's proposal which the landlord did not accept.

The landlord provided numerous photographs showing nail holes on the wall, some dirty carpets, marks on the wall and some uncleanliness. The tenant provided photographs showing the property in reasonably clean condition.

The landlord claimed loss of rent of \$3,251.61 for July 2019 and August 1, 2019 to August 25, 2019. The landlord testified that she did not attempt to market the rental unit to new tenants after the tenant moved out because the landlord had decided to sell the rental unit.

The landlord claimed electric utility charges of \$61.61 for electricity charges for the period of July 5, 2019 to August 25, 2019.

The landlord provided an invoice for \$3,756.14 for repainting the rental unit.

The landlord also claimed reimbursement of \$575.00 her labour cleaning the rental unit at a rate of \$25.00 per hour. The landlord also provided receipts for \$52.07 for cleaning supplies.

The landlord also provided a receipt of \$21.26 for the replacement of a broken toilet seat.

The landlord also claimed that the tenant removed \$80.00 worth of paint and \$80.00 worth of curtains.

Analysis

Section 38(4)(a) of the *Act* states that a “landlord may retain an amount from a security deposit or a pet damage deposit if at the end of a tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant.” In this matter, based upon the terms condition inspection report signed by the landlord and the corroborating testimony of the tenant, I find that the landlord and tenant entered a written agreement to resolve their claims against each other by the tenant regarding rent and damage to the rental unit by agreeing to surrender \$754.83 from her deposits for rent obligations plus a deduction for cleaning and carpet cleaning expenses.

I find that the terms of the agreement were that the landlord was to deduct the sum of \$754.83 from the deposits plus the cost of cleaning and carpet cleaning. I find that any further claims for damage to the rental unit or loss of rent were resolved in this agreement.

In regards to the cleaning costs, section 37(2)(a) of the *Act* stipulates that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Based upon the photographs provided, I find that some cleaning was required. I find an appropriate amount for these cleaning services would one-half day (four hours) of cleaning at the rate of \$20.00 dollars per hour. In addition, based upon the receipts provided, I find that the landlord has provided sufficient evidence to establish that the landlord incurred the expense of \$52.07 in cleaning supplies. Accordingly, I will allow the landlords \$132.07 (\$80.00 plus \$52.07) for cleaning costs.

The landlord also claimed \$262.50 for carpet cleaning expenses. Although the landlord did not provide a quote for the carpet cleaning, I find that this a reasonable charge for

cleaning the carpets. Accordingly, I award the landlord \$262.50 for carpet cleaning expenses.

The landlord claimed reimbursement for utility charges of \$61.61 for electricity charges for the period of July 5, 2019 to August 25, 2019. However, the landlord did not provide a basis under the Act or the tenancy agreement as to establish that the tenant was responsible for utility charges after the termination of the tenancy agreement. Accordingly, the landlord's claim for reimbursement of utility expenses is dismissed.

Although the landlord claimed that the tenant removed \$80.00 worth of paint and \$80.00 worth of curtains in her application, the landlord did not present any evidence or testimony regarding these claims in the hearing. As such, I find that the landlord has failed to provide sufficient evidence to support these claims and the landlords claim for compensation relating the paint supplies and curtains are dismissed.

Since the landlord has been partially successful in this matter, I award the landlord one-half of the filing fee, being \$50.00, pursuant to section 72.

The remaining balance of the security deposit, after deducting the landlord's damages herein, is \$150.60 as calculate below. I order that the landlord pay the sum of \$150.60 to the tenant.

<u>Item</u>	<u>Amount</u>
Security deposit	\$900.00
Pet damage deposit	\$450.00
Rent owed to landlord	-\$754.83
Cleaning costs owed to landlord	-\$132.07
Carpet cleaner	-\$262.50
Filing fee reimbursement	-\$50.00
Balance of deposit to tenant	\$150.60

Conclusion

I grant the tenant a monetary order in the amount of **\$150.60**. If the landlord fails to comply with this order, the tenant may file the order in the Provincial Court to be 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: November 04, 2019

Residential Tenancy Branch