



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL MNDL-S

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.

Landlord SM and the tenant attended the hearing and had full opportunity to provide affirmed testimony, present evidence, cross examine the other party, and make submissions. The tenant acknowledged receipt of the tenant's Notice of Hearing and Application for Dispute Resolution. Neither party raised issues of service. I find the parties were served in accordance with the *Act*.

Issue(s) to be Decided

Are the landlords 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?

Are the landlords 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?

Are the landlords entitled to recover the filing fee for this application pursuant to section 72?

Background and Evidence

The parties testified that the tenancy ended on September 30, 2019. The landlord still holds the \$800.00 security depot. The landlord has returned the pet damage deposit.

The landlord presented a condition inspection report was September 30, 2019. The condition inspection report was signed by both the landlord and the tenant. The tenant disputed the condition inspection report.

The landlord claimed that the rental unit was not left in a clean condition. The landlord provided multiple photographs of the rental unit which included photographs showing debris under the clothes dryer and showing the interior of the refrigerator. The condition inspection report indicated that some cleaning was needed and the appliances needed to be pulled out and cleaned underneath. The landlord testified that they spent \$80.00 for a professional cleaning service. The landlord presented a receipt.

The tenant testified that she left the rental unit in a clean condition. The tenant testified that spent \$125.00 to have the rental unit professionally cleaned at the end of the tenancy. The tenant presented a cleaning invoice for \$125.00.

The landlord claimed \$475.00 for repairs to the walls. The condition inspection report indicated damage to the walls and the landlord presented photographs showing damage to the walls. The tenant testified that the walls were patched before she vacated the rental unit and the landlords told her that they would paint it. The landlord presented a receipt for \$375.00 from a handyman and she claimed an additional \$100.00 for the landlords' labour.

The landlord claims that the tenant damaged the finish on the refrigerator, stove and dishwasher. The landlord provided multiple photographs showing multiple indentations on the finishes.

The landlord testified that the appliances were purchased new one year ago. The landlord presented an invoice showing the following prices: the refrigerator cost \$1,143.25 plus tax; the dishwasher cost \$590.75 plus tax; and the oven cost \$675.75, plus tax.

The landlord presented quotes of \$1,178.82 for replacement parts and a quote of \$236.25 for labour to repair the appliances.

The landlord also claimed expenses for printing and mailing her evidence for this hearing.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy agreement or the *Act*, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. The purpose of compensation is to put the claimant who suffered the damage or loss in the same position as if the damage or loss had not occurred. Therefore, the claimant bears the burden of proof to provide sufficient evidence to establish **all** of the following four points:

1. The existence of the damage or loss;
2. The damage or loss resulted directly from a violation – by the other party – of the *Act*, regulations, or tenancy agreement;
3. The actual monetary amount or value of the damage or loss; and
4. The claimant has done what is reasonable to mitigate or minimize the amount of the loss or damage claimed, pursuant to section 7(2) of the *Act*.

In this case, the onus is on the landlords to prove entitlement to a claim for a monetary award. The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

Each of the landlords' claims is addressed:

i. Cleaning

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. The Condition Inspection Report for move-out indicates that parts of the rental unit needed to be cleaned. *Residential Tenancy Regulations*, regulation 21 provides that “a condition inspection report completed in accordance with this Part is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection.” I therefore find that the property needed to be cleaned.

However, I find that the claimed \$80.00 for cleaning is excessive. The tenant had the rental unit professionally cleaned and the requirement to leave the rental unit in a reasonably clean condition does not require the tenant to pull out appliances that do not have wheels to clean under appliances. Based on the condition inspection report and the photographs provided, I find that a reasonable amount of cleaning services would be two hours of cleaning at the rate of \$20.00 per hour. Accordingly, I will allow the landlords \$40.00 for cleaning costs.

ii. Wall repair

The Condition Inspection Report for move-out indicated wall damage and *Residential Tenancy Regulations*, regulation 21 provides that “a condition inspection report completed in accordance with this Part is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection.” In addition, the landlord provided photographs showing wall damage. I find that the landlord has provided sufficient evidence to establish that the \$375.00 incurred by the handyman was a reasonable expense to repair damage to the walls caused by the tenant.

However, I find that the landlord has not provided sufficient evidence to establish their claim for an additional \$100.00 for their own labour in repairing the walls. Accordingly, I will allow the landlords \$375.00 for wall repair.

iii. Damage to appliances

I accept that the landlords have provided sufficient evidence showing that the finish of the refrigerator, oven and dishwasher were damaged during the tenancy. However, I find that the landlords have not provided sufficient evidence to establish that the damage affected the useful life of these appliances. Therefore, I find that it is appropriate that I grant the landlord an amount representing a devaluation of the appliances. In this matter, I find this damage represents a 10% devaluation in the value of each of these appliances.

Based on the testimony of the landlord and the invoices provided, I find that the refrigerator cost \$1,143.25, plus tax of \$137.19, for a total of \$1,280.44 when it was purchased approximately one year ago. *Residential Tenancy Policy Guideline* No. 40 states that the useful life of refrigerators is 15 years. Since the landlord has owned the refrigerator for one year out of an anticipated useful life of 15 years, I find that the refrigerator has a current value of 93.3% of the new value, being \$1,194.65 (93.3% of

\$1,280.44). Accordingly, I award the landlord \$119.47 (10% of \$1,194.65) for compensation for damage to the refrigerator.

Based on the testimony of the landlord and the invoices provided I find that the dishwasher cost \$590.75, plus tax of \$70.89, for a total of \$661.64 when it was purchased one year ago. *Residential Tenancy Policy Guideline* No. 40 states that the useful life of dishwashers is 10 years. Since the landlord has owned the dishwasher for one year out of an anticipated useful life of 10 years, I find that the dishwasher has a current value of 90% of the new value, being \$595.48 (90% of \$661.64). Accordingly, I award the landlord \$59.55 (10% of \$595.48) for compensation for damage to the dishwasher.

Based on the testimony of the landlord and the invoices provided I find that the oven cost \$675.75, plus tax of \$81.09, for a total of \$756.84 when it was purchased one year ago. *Residential Tenancy Policy Guideline* No. 40 states that the useful life of ovens is 15 years. Since the landlord has owned the oven for one year out of an anticipated useful life of 15 years, I find that the refrigerator has a current value of 93.3% of the new value, being \$706.13 (93.3% of \$756.84). Accordingly, I award the landlord \$70.61 (10% of \$706.13) for compensation for damage to the oven.

iv. Document expenses

I find that the landlord's photocopy costs and hearing preparation costs are not recoverable claims in Residential Tenancy Branch hearings. Accordingly, I shall deny these claims.

v. Security deposit

I find that the landlord holds a security deposit in the amount of \$800.00 and I find that the landlord's damages may be deducted from security deposit pursuant to 72(2)(b) of the *Act*.

vi. Filing fee

Since the landlord has been generally successful in this application, I grant the landlord reimbursement of the filing fee pursuant to section 72 of the *Act*.

vii. *Net award*

The remaining balance of the security deposit, after deducting the landlord's damages herein, is \$35.37 as calculate below. I order that the landlords pay the sum of \$35.37 to the tenant.

<u>Item</u>	<u>Amount</u>
Security deposit held by landlords	\$800.00
Less: damages for cleaning	-\$40.00
Less: damages for wall repair	-\$375.00
Less: damages for refrigerator	-\$119.47
Less: damages for dishwasher	-\$59.55
Less: damages for oven	-\$70.61
Less: reimbursement of filing fee	-\$100.00
Total	\$35.37

Conclusion

I grant the tenant a monetary order in the amount of **\$35.37**. If the landlords fail 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 11, 2019

Residential Tenancy Branch