



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords filed under the Residential Tenancy Act (the “Act”), for a monetary order for cleaning the rental unit, for an order to retain the security deposit in full satisfaction of the claim and to recover the cost of the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Are the landlords entitled to monetary compensation for cleaning costs?

Are the landlords entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The parties agreed that the tenancy began on October 1, 2017. Rent in the amount of \$1,450.00 was payable on the first of each month. The tenants paid a security deposit of \$725.00. The tenancy ended on September 30, 2019.

The tenants testified that they paid a pet damage deposit to the landlords in cash. Filed in evidence are receipts for the security deposit and pet damage deposit dated September 29, 2017

The landlords testified that the tenants did not pay the pet damage deposit that was a requirement of the tenancy agreement. The landlords stated that the tenants did not have the money at the time, and it was agreed in the tenancy agreement that they would pay the pet damage deposit on December 1, 2017, which was never received.

The landlords testified that the receipts the tenants filed in evidence are not signed by them and have never seen them before. The landlords stated they believe the security deposit was paid by etransfer.

The tenants argue that they agreed the landlords did not sign the receipts. The tenants stated they gave the landlords a copy of the receipts when they paid the security deposit and pet damage deposit as they wanted a record that it was paid.

The parties agreed a move-in condition inspection report was completed.

The landlords claim as follows:

a.	Cleaning costs	\$472.50
b.	Yard work	\$ 90.00
c.	Filing fee	\$100.00
	Total claimed	\$662.50

Cleaning costs

The landlords testified that the tenants did not leave the rental unit reasonably clean at the end of the tenancy. The landlords stated that the appliances were not pulled out and cleaned underneath and the floors were dirty. The sides of the stove were not cleaned. There were dirty cupboards and shelving, and the walls in the bedroom had to be washed as there were children's drawings on the walls with markers. The landlords stated that most of the time cleaning was the basement area. The landlords seek to recover the cost of cleaning in the amount of \$472.50. Filed in evidence are photographs. Filed in evidence is a receipt for cleaning.

The tenants testified that they left the rental unit clean. The tenants stated they had paid a cleaner to clean the premises. The tenants stated that the landlords' photographs are not dated and could have been taken at any time.

The tenants testified that they have provided their own photographs which are dated and taken on the last day of the tenancy. Filed in evidence is a receipt for cleaning and photographs.

The tenants were questioned on their photographs as they do not appear to be digitally stamped. The tenants stated that they had a friend date stamp on the photographs.

Yard work

The landlords testified that the tenants were responsible for yard maintenance as a term of their tenancy agreement. The landlords stated that the yard was getting unsightly and they paid to have the yard work completed. The landlords seek to recover the cost of \$90.00.

The tenants testified that they maintained the yard during the tenancy. The tenants stated that they cut the lawn once a month as the lawn was not growing fast during the summer. The tenants stated that the landlords hired someone to do the yard maintenance as they had the property for sale and wanted the property to look better.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlords have the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

How to leave the rental unit at the end of the tenancy is defined in Part 2 of the Act.

Leaving the rental unit at the end of a tenancy

37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

Cleaning

Both parties have provided photographs. However, I find the tenants photographs are questionable as they went through considerable effort to date stamp each photograph filed in evidence. It was the tenants that raised the issue that the landlords' photographs were not dated. Hand stamping a photograph, such in this case, makes me believe the tenants were attempting to mislead the Arbitrator.

However, in this case, both parties used the same cleaning person, which I find to be the most reliable and credible evidence.

The invoice the tenants submitted from the cleaning services states the following:

“Note**** I had a limited time frame to clean the house due to scheduling restraints, and other factors such as a miscommunication to move out date. I was hired by a friend of the tenants and was advised to do as much as possible in the time I had allotted due to this miscommunication the move out clean was not completed to my satisfaction.”

[Reproduced as written]

The invoice the landlords submitted from the cleaning services states the following:

“Note””” I was hired the first time by the tenants to do a “move out” clean but was unable to finish due to insufficient time.

Note***the residence was in the same shape from the last day of “move out” clean by tenants.”

[Reproduced as written]

I am satisfied based on the invoices of both parties, that the tenants did not provide sufficient time for the cleaner to clean the rental unit. I find the tenants breached the Act and this caused losses to the landlords. Therefore, I find the landlords are entitled to recover the cost of the cleaner in the amount of **\$472.50**.

Yard work

In this case, the landlords paid to have the yard mowed and the weeds removed. However, I am not satisfied that this was simply because the tenants were not complying with their tenancy agreement. No warning letters were provided that if the yard was not brought to a reasonable standard by a date certain that the landlords would have the yard work completed and invoice the tenants for the work. Therefore, I dismiss this portion of the landlord’s claim.

I find that the landlords have established a total monetary claim of **\$572.50** comprised of the above described amount and the \$100.00 fee paid for this application.

I am satisfied that the tenants paid a security deposit. I am not satisfied that the tenants paid a pet damage deposit. I find the receipts the tenants have submitted as evidence, has no weight, as it was not signed by the landlords and is inconsistent with their tenancy agreement.

The receipts are dated September 29, 2017 , and their tenancy agreement states that the pet damage was not due until December 1, 2017. I find if the pet damage deposit was paid at the time of the security deposit, the dates would be the same in the tenancy agreement, not showing the pet damage deposit was due two months later. This supports the landlords’ version of events that the tenants did not have the funds at the time to pay the pet damage deposit.

I accept the landlords’ version over the tenants’ version. As it makes no sense for the tenants to simply give the landlords receipts and not have the landlords sign it. The purpose of a receipt is to have the other party sign it, to acknowledge such payment

was received. This leads me to believe the receipts were provided to mislead the Arbitrator. Therefore, I find the tenants did not pay a pet damage deposit.

I find the landlords application was made within the statutory time limit of receiving the tenants forwarding address on October 19, 2019. The landlords were claiming cleaning cost, not damages to the rental unit. I find the tenants are not entitled to double the security deposit.

I order that the landlords retain the amount of **\$572.50** from the security deposit of **\$725.00** in full satisfaction of the claim and I grant the tenants an order under section 67 of the Act for the balance due of their security deposit in the amount of **\$152.50**.

Should the landlords fail to pay the balance due. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The landlords are **cautioned** that costs of such enforcement are recoverable from the landlords.

Conclusion

The landlords are granted a monetary order and may keep a portion of the security deposit in full satisfaction of the claim. The tenants are granted a formal order for the balance due of their security deposit.

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: December 20, 2019

Residential Tenancy Branch