



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the "Act"), for a monetary order for damages to the unit, and to recover the cost of the filing fee.

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were served in person, by a process server on February 26, 2020. The landlord stated that they also had sent the above documents by registered mail; however, they were returned unclaimed, a Canada post tracking number was provided as evidence of service,

I find that the tenant has been duly served in accordance with the Act, on February 26, 2020, by personal service.

The landlord appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

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

Is the landlord entitled to monetary compensation for damages?

Background and Evidence

The tenancy began on December 1, 2018. Rent in the amount of \$1,550.00 was payable on the first of each month. The tenancy ended on December 3, 2019.

A move-in condition inspection report was completed. The tenant did not participate in the move-out condition inspection and the report was completed in the tenant's absence.

The landlord claims as follows:

a.	Electric utility overage from October to December 1, 2019	\$ 185.48
b.	Missing items, cleaning and damage	\$3,235.99
c.	Filing fee	\$ 100.00
	Total claimed	\$3,521.47

Electric utility overage

The landlord testified that one day after the tenant was served with a notice to end tenancy for unpaid rent, the tenant started abusing their electricity consumption, as they would turn the heat up and the leave the rental unit windows open. The landlord stated that this neglect increased the electric usage by 600% for the same time period.

The landlord testified that the addendum to the tenancy agreements states that if the utilities exceed the historical average the tenant will be responsible for the overage. The landlord seeks to recover the overage in the amount of \$185.48. Filed in evidence are electrical consumption charts.

Missing items, cleaning and damage

The landlord testified that the following items were missing at the end of the tenancy. Fridge door handle, fridge door bar, towel ring, door stops and bathroom sink stoppers. The landlord seeks to recover the cost of the missing items in the amount of \$413.95. Filed in evidence are photographs and receipts.

The landlord testified that the tenant removed most of their items from inside of the rental unit; however, they did not clean the rental unit and they had to pay to have it cleaned. The landlord stated that the tenant also left lots of garbage in the yard, which included an air mattress, box spring and mattress and at least a dozen bags of garbage. The landlord seeks to recover the cost of cleaning in the amount of \$300.00. Filed in evidence are photographs, videos, and receipts.

The landlord testified that the tenant started smoking in the rental unit once they knew they were going to be evicted. The landlord stated that they had to repaint the unit to eliminate the smell of smoke. The landlord seeks to recover the cost of painting and supplies in the amount of \$887.91

The landlord testified that there were deep scratches on the walls from the tenant's dog scratching. The landlord stated they had to pay to have the repairs made. The landlord seeks to recover the labour costs in the total amount of \$345.00.

The landlord testified that the floor was also damaged beyond normal wear and tear from the tenant's dog and children. The landlord stated that they have depreciated the value of the floor by 70% and seek to recover the remainder 30% in the amount of \$729.12

The landlord testified that they spent 16 hours, organizing the repairs, helping with cleaning . The landlord seeks to recover the cost of their labour in the amount of \$560.00.

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 landlord has 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.

As the tenant was served in person, with the landlord's claim and has failed to attend, I find it reasonable to concluded that the landlord's application is unopposed by the tenant.

Electric utility overage

I accept the undisputed testimony of the landlord that the tenant utility consumption was over the historical amount due to the tenant's actions of turning the heat up and leaving the windows open. I find the addendum to the tenancy agreement permits the landlord to recover the overage. Therefore, I find the landlord is entitled to recover the overage in the amount of **\$185.48**.

Missing items, cleaning and damage

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.

I accept the undisputed testimony of the landlord that the tenant did not leave the rental unit undamaged as there were missing items, this is supported by move-out condition inspection report, photographs and videos. I find the tenant breached section 37 of the Act and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover the cost of the missing items in the amount of **\$413.95**

I accept the undisputed testimony of the landlord that the tenant did not leave the rental unit reasonably clean, this is supported by move-out condition inspection report, photographs and videos. I find the tenant breached section 37 of the Act and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover the cost of cleaning in the amount of **\$300.00**.

I accept the undisputed testimony of the landlord that the tenant was smoking in the rental unit contrary to their tenancy agreement. I find the tenant breached section 37 of the Act and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover the cost of painting in the amount of **\$887.91**

I accept the undisputed testimony of the landlord that the tenants dog scratched the drywall. I find the tenant breached section 37 of the Act, when they failed to repair damaged caused by their pets. Therefore, I find the landlord is entitled to recover the cost of the labour in the amount of **\$345.00**.

I accept the undisputed testimony of the landlord that the floor was damaged beyond normal wear and tear. The landlord has depreciated the value by 70%. Therefore, I find the landlord is entitled to recover the cost of deprecated value of the floor in the amount of **\$729.12**.

I accept the undisputed testimony of the landlord that they spent 16 hours repairing the damage to the rental unit, this include time for arranging and coordinating service,

assisting with cleaning and helping with repairs. I find this is reasonable. Therefore, I find the landlord is entitled to recover the cost of their labour in the amount of **\$560.00**.

I find that the landlord has established a total monetary claim of **\$3,521.47** comprised of the above described amounts and the \$100.00 fee paid for this application.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlord is granted a monetary order.

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: March 25, 2020

Residential Tenancy Branch