



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Landlord under the *Residential Tenancy Act* (the “Act”), seeking:

- Compensation for damage to the rental unit; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the agent for the Landlord (the “Agent”), who provided affirmed testimony. No one appeared on behalf of the Tenants. The Agent was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the respondent must be served with a copy of the Application and Notice of Hearing. As no one attended the hearing on behalf of the Tenants, I confirmed service of these documents as explained below.

The Agent testified that the Notice of Dispute Resolution Proceeding Package, including a copy of the Application, notice of the hearing, and copies of the Landlord’s documentary evidence, was sent to each of the Tenants by registered mail at their forwarding address on December 23, 2019, and provided me with copies of the registered mail tracking numbers. Tracking for the registered mail packages show that they were sent as described above and received on December 24, 2019. As a result, I find that the Tenants were each served the Notice of Dispute Resolution Proceeding Package, including a copy of the Application, notice of the hearing, and copies of the Landlord’s documentary evidence, in accordance with the *Act* and the Rules of Procedure, on December 24, 2019.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure; however, I refer only to the relevant facts, evidence and issues in this decision.

At the request of the Agent, copies of the decision and any orders issued in their favor will be emailed to them at the email address provided in the Application.

Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy agreement in the documentary evidence before me states that the one-year fixed-term tenancy began on August 1, 2017, that rent in the amount of \$1,250.00 was due on the first day of each month, and that a security deposit in the amount of \$625.00 was paid. The Agent confirmed that rent was \$1,281.00 at the time that the tenancy ended and that the remaining terms of the tenancy agreement are correct.

The Agent stated that the tenancy ended on October 2, 2019, and that a move-out condition inspection was completed the following day, on October 3, 2019, with one of the Tenants. The Agent stated that the Tenant agreed that there was damage to the rental unit in the amount of \$2,551.00 and that the Landlord could keep the security deposit for this purpose. The Agent stated that the Tenant also provided a forwarding address for both Tenants on the move-out condition inspection report.

The Agent stated that a copy of the move-out condition inspection report was given to the Tenant at the time of the inspection, and that another copy was mailed to the Tenants with the invoice for the balance owed for damage to the rental unit after deduction of the security deposit and a small rent credit. The Agent also stated that a move-in condition inspection was completed at the start of the tenancy, and that a copy was provided to the Tenants as required.

The Agent stated that the rental unit was extensively renovated four years ago, and that all new countertops, flooring, and window coverings were put in the rental unit at that time. The Agent stated that the Tenants damaged the floor, countertops, and blinds during their tenancy so significantly that they needed to be replaced at a cost of \$1,938.00 after retention of the security deposit.

The Agent stated that they gave the Tenants some time to make payment arrangements for the remaining balance owed after sending them the invoice, a copy of

which is included in the documentary evidence before me, and another copy of the condition inspection report, in October of 2019, but the Tenants did not pay the outstanding amounts owed and as a result, the Application was filed.

In support of their testimony the Agent provided me with a copy of the tenancy agreement, the condition inspection report, invoices/quotes for flooring and countertop repairs, photographs of the damage to the rental unit, and a copy of the letter to the Tenants regarding the outstanding balance owed as of October 4, 2019.

No one appeared on behalf of the Tenants to provide any evidence or testimony for my consideration.

Analysis

Section 32 (3) of the *Act* states that a tenant of a rental unit 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. Section 7 of the *Act* states that if a landlord or tenant does not comply with the *Act*, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results. However, it also states that a landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with the *Act*, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

I am satisfied based on the testimony of the Agent and the documentary evidence before me that the Tenants damaged the flooring, countertops and blinds in the rental unit during the tenancy, and that these items were four or less years old at the start of the tenancy. As a result, I find that these items were not passed their useful life as outlined in Residential Tenancy Policy Guideline #40. I am also satisfied based on the move-out condition inspection report and the testimony of the Agent that the Tenants agreed that they caused damage to the rental unit of not less than \$2,551.00 and that the Landlord could retain their security deposit for this purpose.

Based on the documentary evidence before me and the testimony of the Agent, I am satisfied that the Landlord suffered a financial loss in the amount of \$1,938.00 as a result of the damage caused by the Tenants or their guests to the rental unit, after the deduction of the \$625.00 security deposit withheld with the consent of the Tenants, and that this damage constitutes more than reasonable wear and tear. I am also satisfied that the Landlord mitigated their loss by first attempting to have the Tenants pay for

these repairs and that the amounts sought do not constitute more than a reasonable amount for the work done. As a result, I therefore find that the Landlord is entitled to the \$1,938.00 in compensation sought.

As the Landlord was successful in their Application, I grant them recovery of the \$100.00 filing fee pursuant to section 72 of the *Act*. As a result, the Landlord is therefore entitled to a Monetary Order in the amount of \$2,038.00 pursuant to section 67 of the *Act*.

Conclusion

Pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of **\$2,038.00**. The Landlord is provided with this Order in the above terms and the Tenants must be served with this Order as soon as possible. Should the Tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and 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: May 22, 2020

Residential Tenancy Branch