



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL

Introduction

In this dispute, the landlord seeks compensation in the amount of \$225.00 for cleaning costs related to the rental unit, pursuant to section 67 of the *Residential Tenancy Act* (the “Act”). They also seek recovery of the \$100.00 filing fee under section 72 of the Act.

The landlord applied for dispute resolution on December 20, 2019 and an arbitration hearing was held, by way of telephone conference, on May 25, 2020. Two representatives for the landlord attended the hearing, were given a full opportunity to be heard, presented affirmed testimony, and made submissions. The agent (“A.C.”) testified that they served the Notice of Dispute Resolution Proceeding package on the tenant by way of Canada Post registered mail on or about December 23, 2019. Based on the undisputed evidence of the landlord’s agent, I find that the tenant was served the Notice of Dispute Resolution Proceeding in compliance with section 89 of the Act.

I have only considered evidence that was submitted in compliance with the *Rules of Procedure*, to which I was referred, and was relevant to the issues of this application.

Issues

1. Is the landlord entitled to compensation as claimed?
2. Is the landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy began July 1, 2019 and ended December 11, 2019. Monthly rent was \$1,295.00 and the security deposit was \$647.50, which is currently held in trust by the landlord. A copy of the written tenancy agreement was submitted into evidence.

The landlord seeks \$175.00 for professional carpet cleaning costs and \$50.00 for general cleaning. The itemization of these costs was recorded in a Condition Inspection Report ("CIR") completed on December 11, 2019 and which was submitted into evidence. The CIR indicates numerous "requires cleaning," "carpet shampoo required," "broken/missing" entries for parts of the rental unit that were "clean" or otherwise in good condition at the start of the tenancy.

In support of their claim, the landlord also submitted sixteen photographs, of the rental unit, depicting the condition that required cleaning. The landlord's agent ("D.M.") testified under oath that the information recorded in the CIR was accurate and an honest recording of the condition of the rental unit. He also testified that the photographs accurately depict the condition of the rental unit at the end of the tenancy.

Analysis

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. The onus to prove their case is on the person making the claim.

When an applicant seeks compensation under the Act, they must prove on a balance of probabilities all four of the following criteria before compensation may be awarded:

1. has the respondent party to a tenancy agreement failed to comply with the Act, regulations, or the tenancy agreement?
2. if yes, did the loss or damage result from the non-compliance?
3. has the applicant proven the amount or value of their damage or loss?
4. has the applicant done whatever is reasonable to minimize the damage or loss?

The above-noted criteria are based on sections 7 and 67 of the Act, which state:

- 7 (1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.
- (2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

. . .

- 67 Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Section 37(2) of the Act states 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 CIR and the accompanying photographs lead me to conclude that the tenant did not leave the rental unit reasonably clean and undamaged except for reasonable wear and tear. But for the tenant's failure to comply with section 37(2) of the Act, the landlord would not have had to incur costs to clean the rental unit.

Regarding the amount sought, the itemized amounts are quite reasonable, and thus I conclude that \$175.00 for professional carpet cleaning and \$50.00 for general cleaning are proven. As for mitigating these losses, the amounts are such that it is unreasonable for me to expect that they could have been any lower.

Taking into consideration all the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving their claim for \$225.00.

As the landlord was successful in its application, I award them \$100.00 for recovery of the filing fee, for a total award of \$325.00.

Section 38(4)(b) of the Act permits a landlord to retain an amount from a security or pet damage deposit if "after the end of the tenancy, the director orders that the landlord may retain the amount." As such, I order that the landlord may retain \$325.00 of the tenant's security deposit in full satisfaction of the above-noted award.

The balance of the security deposit in the amount of \$322.50 must be returned by the landlord to the tenant at the landlord's earliest opportunity.

Conclusion

The landlord's application is granted. Pursuant to sections 38(4)(b), 67, and 72 of the Act, I hereby authorized the landlord to retain \$325.00 of the tenant's security deposit.

This decision is final and binding and is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: May 25, 2020

Residential Tenancy Branch