



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT, MNDL-S, FFL

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied on February 3, 2020 for:

1. An Order for the return of double the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord applied on March 5, 2020 for:

1. A Monetary Order for compensation - Section 67
2. An Order to retain the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity to be heard, to present evidence and to make submissions. The Parties confirm receipt of each other's evidence.

Issue(s) to be Decided

Are the Landlords entitled to the monetary amounts claimed?

Is the Tenant entitled to return of double the security deposit?

Is the Tenant entitled to recovery of the filing fee?

Relevant Background and Evidence

The following are agreed facts: the tenancy under written agreement with a different landlord, started on April 1, 2016. At the outset of the tenancy the Landlord collected \$700.00 as a security deposit and on October 8, 2018 the Landlord collected \$377.00 as a pet deposit. No move-in condition inspection was conducted. The Tenant moved out of the unit on December 31, 2019. On this date at approximately 1:30 p.m. the Parties mutually conducted a move-out condition inspection with a completed inspection report copied to the Tenant.

The Tenant states that as it was uncomfortable giving the Landlord's her residential address as a forwarding address. The Tenant states that it only told the Landlord to return the security deposit to the dispute address as the Tenant's mail was being forwarded. The Tenant states that no other address was provided to the Landlord. The Landlord submits that on January 8, 2020 the Landlord returned \$277.00 of the combined security and pet deposit to the Tenant at the dispute address. The Tenant received this money. The Tenant claims return of double the security deposit.

The Landlord states that the Tenant failed to pay a move-out fee of \$100.00. The Landlord states that there is nothing in the tenancy agreement requiring the Tenant to pay this fee. The Landlord provides a copy of an addendum signed by the Parties on January 2, 2017 that refers to strata rules however no copy of those rules was provided as evidence. The Landlord claims \$100.00.

The Landlord states that the Tenant left a closet door with a hole at the bottom. The Landlord claims \$90.00 for the repair of the hole. The Landlord states that a contractor made the repairs however the Landlord did not provide an invoice to support this cost claimed. The Landlord states that it is unsure of the age of the door as it was pre-existing when they took over the tenancy. The Tenant states that the door is aged and original to the building. The Landlord states that the building was new in 1981.

The Landlord states that the Tenant left the dining room carpet with a stain that could not be removed by either the Tenant or the Landlords. The Landlord states that as a result they replaced the carpet. The Landlord submits that due to the age of the carpet the claim for the replacement carpet has been reduced. The Landlord claims \$1,057.24 as the costs for the replacement. The Tenant states that the carpet was at least 10 years old. The Tenant states that the stain was pre-existing to the start of the tenancy and that during the tenancy the area was covered by its own carpet.

The Landlord states that the Tenant left the carpet soaking wet and soapy. The Landlord was concerned about mold growth and that after the move-out inspection they purchased a fan to dry the carpet on December 31, 2019. The Landlord states that no tenants were waiting to move into the unit. The Landlord claims \$39.40 as the cost of the fan. The Tenant states that the carpets were professionally cleaned at 9:00 a.m. on December 31, 2019 and that the Landlord was informed that the carpets were not yet dried for the move-out inspection. The Tenant states that the Landlord was given a copy of the cleaning receipt and that this receipt was provided as evidence for this dispute. The Landlord states that this receipt is not included with the Tenant's evidence.

Analysis

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. As the Landlord has provided no evidence to support that the Tenant was required under the terms of the tenancy agreement to pay a move-out fee, I find that the Landlord has failed to sufficiently substantiate that the Tenant breached the tenancy agreement causing any loss to the Landlord. I dismiss the claim for a move-out fee.

Policy Guideline #40 sets the useful life of a door at 20 years. Given the Landlord's evidence of no knowledge of the age of the door, the Landlord's evidence of the age of

the building and the Tenant's evidence that the door was aged, I find on a balance of probabilities that the door was well beyond its useful life and that the costs to repair this door belong to the Landlord. I dismiss the claim for \$90.00.

Policy Guideline #40 sets the useful life of a carpet at 10 years. Given the Landlord's evidence of an aged carpet and the Tenant's evidence of the carpet being at least 10 years I find on a balance of probabilities that the carpet was beyond its useful life and that the costs to replace the carpet belong to the Landlord. I dismiss the claim for \$1,057.24.

Section 21 of the Regulations provides that a duly completed inspection report is evidence of the condition of the rental property, unless either the landlord or tenant has a preponderance of evidence to the contrary. Given the move-out report showing no indication of a wet carpet, considering that the Landlord provided no supporting evidence of a wet carpet and given the Tenant's undisputed evidence that the carpet had been cleaned, I find on a balance of probabilities that the Landlord has not substantiated that the carpet was left soaking by the Tenant. I dismiss the claim for \$39.20.

As none of the Landlord's claims have been successful, I dismiss the claim for recovery of its filing fee and in effect the application is dismissed in its entirety.

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. The rental unit address is not a "forwarding" address. Based on the undisputed evidence that the Tenant provided no other address as a forwarding address I find that the Landlord's obligation to return the security deposit or make its application was not triggered. I therefore dismiss the Tenant's claim for return of double the security deposit. As the

Landlord has already returned \$277.00 to the Tenant, I find that the Tenant is entitled to return of \$800.00. ($700 + 377 - 277 = 800$). As the Tenant's application has met with some success, I find that the Tenant is entitled to recovery of the filing fee of \$100.00 for a total entitlement of \$900.00.

Conclusion

The Landlord's application is dismissed.

I grant the Tenant an order under Section 67 of the Act for **\$900.00**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: June 26, 2020

Residential Tenancy Branch