



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Narod Properties Corp. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S FFL

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- a monetary order for damage or compensation pursuant to section 67 of the *Act*;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 67 of the *Act*;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72 of the *Act*.

The landlord appeared at the hearing and was given the opportunity to make submissions as well as present affirmed testimony and documentary evidence.

The landlord testified that the tenant was served with the Application for Dispute Resolution by registered mail sent on March 09, 2020. Registered mailing is deemed received by the tenant on March 14, 2020 in accordance with sections 89 and 90 of the *Act*. The landlord provided the Canada Post tracking number referenced on the cover page of the decision.

The tenant did not appear at the hearing. I kept the teleconference line open from the time the hearing was scheduled for an additional 13 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct participant code for the tenant had been provided.

Residential Tenancy Policy Rules of Procedure 7.3 states:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

I find that the tenant was served with the landlord's application and evidentiary documents. I proceeded with this hearing as per Rule of Procedure 7.3

Issues to be Decided

Is the landlord entitled to a monetary order pursuant to section 67 of the *Act*?

Is the landlord entitled to retain the security deposit pursuant to sections 38 and 67 of the *Act*?

Is the landlord entitled to reimbursement of the filing fee pursuant to section 72(1) of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the landlord's testimony, not all details of the submissions and arguments are reproduced here. The relevant aspects of this matter and my findings are set out below.

The landlord testified the tenancy began on June 30, 2019. The rent was \$2,200.00 monthly payable on the first of the month. A copy of the tenancy agreement was submitted in evidence.

At the outset of the tenancy, the tenant provided a security deposit in the amount of \$1,100.00 which was held in Trust by the landlord. A further \$1,100.00 pet damage deposit was provided by the tenant a few weeks later when the landlord discovered the tenant owned a pet dog.

The landlord affirmed that they kept the security deposit and pet damage deposit until they received the tenant's forwarding address beginning of March 2020. The landlord affirmed that he sent the balance of the deposit back to the tenant On March 9, 2020.

On March 05, 2020 the landlord submitted an application to the Residential Tenancy Branch claiming damages to pay for the cleaning, carpet cleaning and replacement of a chair for the total sum of \$587.76

The landlord testified that a move-in inspection was conducted in June 2019 but on vacating the unit on January 31, 2020, the tenant did not agree to sign the move-out condition inspection and argued with the landlord that he had not agreed to clean the unit at the end of the tenancy. A copy of the condition inspection was submitted in evidence.

The landlord affirmed the two-bedroom apartment was left in a filthy condition and he had to instruct a cleaning company to clean the apartment before he was able to re-rent the apartment.

The landlord affirmed that they had to purchase a replacement red chair from a retail store as the tenant's dog had chewed and damaged the chair. A photo of the damaged chair was submitted in evidence by the landlord.

The landlord testified they had to instruct a professional carpet cleaning and restoration company as the carpet was dirty and there were marks left on the carpet by the tenant's dog.

The landlord therefore requested a monetary order list of claimed expenses. I have considered the landlord's testimony and invoices provided as below:

ITEM	AMOUNT
Cleaning	\$ 157.50
Replacement chair	\$231.81
CC Carpet Cleaning	\$198.45
TOTAL	\$587.76

The landlord requested authorization to apply the security deposit in the amount of \$587.76 to offset against the damage and cleaning costs incurred in the rental unit.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy agreement or the *Act*, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

The purpose of compensation is to put the claimant who suffered the damage or loss in the same position as if the damage or loss had not occurred. Therefore, the claimant bears the burden of proof to provide sufficient evidence to establish all of the following four points:

1. The existence of the damage or loss;
2. The damage or loss resulted directly from a violation – by the other party – of the *Act*, regulations, or tenancy agreement;
3. The actual monetary amount or value of the damage or loss; and
4. The claimant has done what is reasonable to mitigate or minimize the amount of the loss or damage claimed, pursuant to section 7(2) of the *Act*.

In this case, the onus is on the landlord to prove entitlement to a claim for a monetary award. 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.

Cleaning costs

The landlord affirmed that the rental unit required cleaning and that the move-out condition inspection report indicated cleaning was required.

Under section 37(2) of the *Act*, the tenant must leave a rental unit *reasonably clean*.

Leaving the rental unit at the end of a tenancy

37 (1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.

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

In consideration of the uncontradicted evidence of the landlord, the evidence submitted, and the burden of proof required, I find on a balance of probabilities that the landlord has established the tenant did not leave the unit reasonably clean.

I accept the landlord's evidence which is supported by the condition inspection report which indicates dirty dishes were left in the sink. I accept the amount requested as compensation for the cleaning expenses to have been incurred by the landlord.

I accept the charges and invoice from the cleaning company, therefore I find the landlord is entitled to a monetary award against the tenant in the amount of \$198.45 for cleaning.

Replacement Chair

The landlord affirmed that the tenant's dog had chewed and damaged the chair which was approximately two years old. In consideration of the uncontradicted evidence of the landlord, the evidence submitted, and the burden of proof required, I find on a balance of probabilities that the landlord has established the tenant's dog damaged the red chair.

Section 37(2) states that when a tenant vacates a rental unit, he must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Therefore, I accept the charge and invoice from the furniture company. I find the landlord is entitled to a monetary award against the tenant in the amount of \$231.81 for the replacement chair.

Carpet cleaning

The landlord affirmed that the carpets were left in a dirty condition and the carpet smelled and had visible dirty marks. Under section 37(2) of the *Act*, the tenant must leave a rental unit *reasonably clean*.

The landlord submitted a copy of the move-out condition inspection report and a carpet cleaning invoice. I find on a balance of probabilities that the landlord has established the tenant did not leave the unit reasonably clean. I accept the landlord's evidence which is supported by the invoice and move-out condition report that the that the carpets required cleaning when the tenant left.

I accept the amount requested as compensation for the cleaning expenses to be have been incurred by the landlord. I therefore find the landlord is entitled to a monetary award against the tenant in the amount of \$198.45

Filing Fee

As the landlord was successful in his application, he may recover \$100.00 of the filing fee pursuant to section 72 of the *Act*.

ITEM	AMOUNT
Cleaning	\$ 157.50
Replacement Chair - Brick	\$231.81
CC Carpet Cleaning	\$198.45
TOTAL	\$587.76

Using the provisions contained in section 72 of the *Act*, I allow the landlord to retain partial security deposit of \$587.76 in satisfaction of the monetary award.

As the landlord has been successful in this application. I grant the landlord the sum of \$100.00 for the filing fee pursuant to section 72 of the *Act*.

Conclusion

I order that the landlord retains the sum of \$687.76 to offset against the expenses incurred from the 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: July 08, 2020

Residential Tenancy Branch