



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Hollyburn Estates Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, MNDL-S, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for a monetary order for unpaid rent in the amount of \$1,385.00, and a monetary order for damages in the amount of \$146.70, retaining the security deposit to apply to these claims; and to recover the \$100.00 cost of their Application filing fee.

The Tenant and two agents for the Landlord, D.S. and S.E. ("Agents"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenant and the Agents were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure "(Rules)"; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. The Tenant listed the items he received from the Landlord and indicated that he had reviewed it prior to the hearing. The Tenant said he had not submitted any evidence for this proceeding to serve on the Landlord.

Preliminary and Procedural Matters

The Parties provided their email addresses in the hearing and confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only

consider their written or documentary evidence to which they pointed or directed me in the hearing.

Issue(s) to be Decided

- Is the Landlord entitled to a monetary order, and if so, in what amount?
- Is the Landlord entitled to recovery of the Application filing fee?

Background and Evidence

The Parties agreed that the fixed term tenancy began on June 1, 2019, running to May 31, 2020, for this one-bedroom, one-bathroom rental unit. They agreed that the Tenant paid the Landlord a monthly rent of \$1,385.00, plus \$25.00 for parking, due on the first day of each month. The Parties agreed that the Tenant paid the Landlord a security deposit of \$692.50, and no pet damage deposit.

The Parties' testimony indicated that the tenancy ended, because the Tenant gave the Landlord a notice to end the tenancy dated May 22, 2020, with an effective vacancy date of May 31, 2020. The Tenant gave the Landlord his forwarding address in this notice to end tenancy. He also told the Landlord that he had lost his job and was "financially hurting."

The Parties agreed that they inspected the condition of the rental unit at the start of the tenancy, as well as inspecting it at the end of the tenancy. Further, they agreed that the Landlord gave the Tenant a copy of the condition inspection report ("CIR").

The Landlord said that the Tenant did not clean all areas of the rental unit at the end of the tenancy, as was required, pursuant to the tenancy agreement. The Landlord submitted a monetary order worksheet, as follows, which set out their claims:

	Receipt/Estimate From	For	Amount
1	Carpet cleaning company	Carpet cleaning	\$90.00
2	Blind cleaning company	Drapery cleaning	\$56.70
3	Tenancy Agreement	Late notice rent owing	\$1,385.00
4	RTB	Application filing fee	\$100.00
		Total monetary order claim	\$1,631.70

#1 CARPET CLEANING → \$90.00

The Agents said that upon turnover of a rental unit, they always ensure that it is professionally cleaned, and that they expect this of tenants at the end of a tenancy. The Agent said that these expectations are set out in the tenancy agreement. The Agents said that tenants are provided with itemized charges when they rent the unit, so they are aware of their obligations from the start of the tenancy.

The Landlord submitted a copy of the tenancy agreement, which has a number of Schedules at the end. Schedule "G" sets out what the Landlord will charge the tenant, if specific items are left unclean. It states that the Landlord will charge a tenant \$130.00 to have the carpeting in a one-bedroom rental unit cleaned.

The Agents said that this had not been done by the Tenant – he provided no receipt proving his compliance with this requirement - so they had the carpeting cleaned in the rental unit.

The Agents directed my attention to an invoice for the carpet cleaning that they said they sent to the Tenant, as well. The invoice is dated June 15, 2020, and indicates carpet cleaning of the rental unit, with a total cost of \$90.00.

The Tenant said he received the Landlord's paperwork for this claim. He said he has no "physical receipts" of having done this himself, but he said did have it done.

#2 DRAPERY CLEANING → \$56.70

The Agents said that the Landlord has the same rationale for the cleaning of drapes in rental units, as it does for carpeting. The Agents said: "We have them professionally done at the beginning of tenancy. In the CIR and in the tenancy agreement, the charges for this claim are known by tenants at the beginning of the tenancy and are acknowledged and agreed to with their signature on the tenancy agreement.

The Agents said that the Tenant did not produce a receipt for having had the drapes cleaned; therefore, they arranged to have it done, themselves, at the end of this tenancy. The Agents submitted a copy of a receipt for this cleaning, dated June 10, 2020. This receipt noted that the drapes had 54 pleats, and the Landlord was charged \$1.00 per pleat, plus tax. The total charged was \$56.70.

Schedule G of the tenancy agreement states that the Landlord will charge a tenant

\$138.00 to have the drapes in a one-bedroom rental unit cleaned

The Tenant said that he did have the drapes cleaned, but he never received a receipt. He suggested that the Agents contact the company he used to confirm that he had it done. The Tenant said that he had the drapes cleaned "...around a month prior to me leaving – 2 or 3 days before I filed the paperwork about vacating the premises."

#3 LATE NOTICE – JUNE 2020 RENT → \$1,385.00

The Agents said that the Tenant was required by the Act to give them 30 days' notice of the end of the tenancy; however, they said the Tenant only gave them nine days notice. The Agents said that the Tenant moved out on May 30, 2020.

The Tenant said: "It wasn't actually May 22; I mailed it a month prior. I was in Surrey, because when I lost my job, I was trying to find a cheaper place to live, but [the notice] got lost in the mail. But I did give them enough notice."

The tenancy agreement states the following about a tenant's notice to vacate the rental unit in clause 1.01: "NOTICE TO VACATE MUST BE GIVEN THE LAST DAY OF THE MONTH, OR BEFORE, TO BE EFFECTIVE THE LAST DAY OF THE FOLLOWING MONTH." [emphasis in original]

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Before the Parties testified, I explained how I would analyze the evidence presented to me. I said that a party who applies for compensation against another party has the burden of proving their claim on a balance of probabilities. Policy Guideline 16 sets out a four-part test that an applicant must prove in establishing a monetary claim. In this case, the Landlord must prove:

1. That the Tenant violated the Act, regulations, or tenancy agreement;
2. That the violation caused the Landlord to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the Landlord did what was reasonable to minimize the damage or loss.

Rule 6.6 sets out that the person making the claim bears the onus of proving their case on a balance of probabilities. In order to do so, a claimant must present sufficient evidence at the hearing to support their claim, meeting this standard of proof.

#1 CARPET CLEANING → \$90.00

Section 37 of the Act states that tenants must leave the rental unit “reasonably clean and undamaged”.

Policy Guideline #1 helps interpret this section of the Act:

The tenant is also generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest. The tenant is not responsible for reasonable wear and tear to the rental unit or site (the premises), or for cleaning to bring the premises to a higher standard than that set out in the *Residential Tenancy Act* or *Manufactured Home Park Tenancy Act* (the Legislation).

Reasonable wear and tear refer to natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion. An arbitrator may determine whether or not repairs or maintenance are required due to reasonable wear and tear or due to deliberate damage or neglect by the tenant. An arbitrator may also determine whether or not the condition of premises meets reasonable health, cleanliness and sanitary standards, which are not necessarily the standards of the arbitrator, the landlord or the tenant.

[emphasis added]

I find that the Parties had an agreement regarding the level of cleanliness expected of the Tenant at the end of the tenancy for this rental unit. The Tenant signed this tenancy agreement, agreeing to the terms set out therein. He said he had the carpets cleaned, but he could not provide a receipt or invoice as proof of this assertion.

I find it is reasonable for a landlord to expect a tenant to have the carpeting in a rental unit steam cleaned at the end of a tenancy. I find that the amount the Landlord charged the Tenant for the carpet cleaning is \$40.00 less than the amount set out in Schedule G of the tenancy agreement. As a result, I find that the Landlord fulfilled their obligation to mitigate or minimize the loss or damage suffered as a result of the tenancy.

I award the Landlord with recovery of the **\$90.00** carpet cleaning charge from the Tenant, pursuant so section 67 of the Act.

#2 DRAPERY CLEANING → \$56.70

Again, I find that the Parties had an agreement at the beginning of the tenancy that the Tenant was responsible for having the drapes cleaned, and even what the Tenant would be charged, if he did not have them done. While the Tenant testified that he did have this done, he did not provide a receipt to support this claim. I find it reasonable that the Landlord would expect the Tenant to provide a receipt as proof that this obligation was fulfilled.

Once again, the Landlord charged the Tenant much less to have the drapes cleaned than it charges, pursuant to Schedule G of the tenancy agreement. The Landlord charged \$81.30 less than the cost set out in Schedule G. I find it is reasonable and standard practice for a landlord to expect a tenant to have the drapes in a rental unit cleaned at the end of a tenancy.

I find that the Landlord fulfilled their obligation to mitigate or minimize the loss or damage suffered as a result of the tenancy, by charging a much lower rate to have the drapes cleaned than is required of a tenant according to Schedule G.

As a result, I award the Landlord with recovery of the **\$56.70** drapery cleaning charge from the Tenant.

#3 LATE NOTICE – JUNE 2020 RENT → \$1,385.00

Section 45(2) of the Act states that a tenant may end a fixed term tenancy effective on a date that (a) is not earlier than one month after the date the landlord receives the notice, (b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and (c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

I did not find the Tenant's evidence persuasive, when he said he mailed the notice, which was dated May 22, a month earlier, or that it was lost in the mail. I prefer the Agents' evidenced that they received the notice eight days prior to the end of the tenancy.

I find that the Tenant breached clause 1.01 of the tenancy agreement, and section 45(2)

of the Act by giving the Landlord insufficient notice of the end of the tenancy. I find that one of the purposes of giving notice is to allow the other party to take steps to minimize their costs associated with the end of the tenancy. In this case, I find that given the insufficient notice from the Tenant, the Landlord was unable to find a new tenant to pay rent on June 1, 2020. Rather, I find that the Landlord incurred the cost of an empty rental unit, which was a cost of \$1,385.00.

I find that the Landlord established the cost they incurred, as a result of the Tenant having breached the tenancy agreement and the Act. As a result, and pursuant to section 67 of the Act, I award the Landlord **\$1,385.00** in recovery of the unpaid rent for June 2020.

Summary and Set Off

I find that this claim meets the criteria under section 72(2)(b) of the Act to be offset against the Tenant's security deposit of \$692.50 in partial satisfaction of the Landlord's monetary claim.

As the Landlord has been successful in their Application, I also award them with recovery of the \$100.00 Application filing fee.

The Landlord's awards are set out as follows:

	Item Claimed	Award
1	Carpet cleaning	\$90.00
2	Drapery Cleaning	\$56.70
3	June 2020 rent	\$1,385.00
4	Application filing fee	\$100.00
	Sub-total	\$1,631.70
5	Less security deposit	(692.50)
	Total	\$939.20

I grant the Landlord a monetary order pursuant to section 67 of the Act for the balance owing by the Tenant to the Landlord in the amount of **\$939.20**.

Conclusion

The Landlord's claim for compensation for damage or loss against the Tenant is successful. The Landlord established a monetary claim of \$1,631.70. I authorize the Landlord to retain the Tenant's full security deposit of \$692.50 in partial satisfaction of the claim. The Landlord is granted a Monetary Order under section 67 for the balance due by the Tenant to the Landlord in the amount of **\$939.20**.

This Order must be served on the Tenant by the Landlord and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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 24, 2020

Residential Tenancy Branch