



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on February 29, 2020 (the “Application”). The Landlord applied for compensation for damage to the rental unit and sought to keep the security deposit. The Landlord also sought reimbursement for the filing fee.

The Landlord appeared at the hearing. The Tenant did not appear. I explained the hearing process to the Landlord. The Landlord provided affirmed testimony.

The Landlord submitted evidence prior to the hearing. The Tenant did not. I addressed service of the hearing package and Landlord’s evidence.

The Landlord testified that the hearing package and evidence were sent by registered mail to the Tenant’s forwarding address on March 13, 2020. The Landlord testified that the forwarding address was provided by the Tenant on the Condition Inspection Report (the “CIR”). The Landlord had submitted the customer receipt for the package with Tracking Number 1 on it. I looked Tracking Number 1 up on the Canada Post website which shows the package was delivered March 17, 2020.

Based on the undisputed testimony of the Landlord, CIR, customer receipt and Canada Post website information, I find the Tenant was served in accordance with sections 88(d) and 89(1)(d) of the *Residential Tenancy Act* (the “Act”). Based on the Canada Post website information, I am satisfied the Tenant received the package March 17, 2020. I find the package was served in enough time to allow the Tenant to prepare for, and appear at, the hearing.

As I was satisfied of service, I proceeded with the hearing in the absence of the Tenant. The Landlord was given an opportunity to present relevant evidence and make relevant

submissions. I have considered all testimony provided and reviewed all documentary evidence submitted. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Landlord entitled to compensation for damage to the rental unit?
2. Is the Landlord entitled to keep the security deposit?
3. Is the Landlord entitled to reimbursement for the filing fee?

Background and Evidence

The Landlord sought \$328.61 in compensation for damage to the fridge door.

A written tenancy agreement was submitted as evidence. The tenancy started October 01, 2019 and was a month-to-month tenancy. Rent was \$1,000.00 due on or before the first day of each month. The Tenant paid a \$500.00 security deposit and \$500.00 pet damage deposit. The agreement was signed by the Landlord and Tenant.

The Landlord testified as follows.

The tenancy ended February 15, 2020.

She kept \$328.61 of the security deposit and returned the remainder to the Tenant with the entire pet damage deposit within 15 days of the end of the tenancy and the Tenant providing a forwarding address.

The Tenant provided a forwarding address on the CIR on February 15, 2020.

The amount noted in section Z (2) on page 3 of the CIR in evidence was not included when the Tenant signed that section of the CIR. The Tenant signed this section of the CIR before the cost of the fridge door was determined.

The parties did a move-in inspection September 22, 2019, completed the CIR and signed the CIR. The unit was empty at the time. The Tenant was given a copy of the CIR in person the date of the inspection.

The parties did a move-out inspection February 15, 2020, completed the CIR and signed the CIR. The unit was empty at the time. The Tenant was given a copy of the CIR in person the date of the inspection.

The fridge doors were both brand new at the start of the tenancy. The receipt in evidence shows this. At the end of the tenancy there were two dents in the lower door. Photos of these have been submitted. A receipt for the cost to replace the lower door has been submitted.

The Landlord submitted photos of the fridge at the start of the tenancy.

Analysis

Section 7 of the *Act* states:

(1) If a...tenant does not comply with this Act...the non-complying...tenant must compensate the [landlord] for damage or loss that results.

(2) A landlord...who claims compensation for damage or loss that results from the [tenant's] non-compliance...must do whatever is reasonable to minimize the damage or loss.

Policy Guideline 16 deals with compensation for damage or loss and states in part the following:

It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

Under sections 24 and 36 of the *Act*, landlords and tenants can extinguish their rights in relation to the security and pet damage deposits if they do not comply with the *Act* and *Residential Tenancy Regulation* (the "*Regulations*"). Further, section 38 of the *Act* sets out specific requirements for dealing with security and pet damage deposits at the end of a tenancy.

Based on the undisputed testimony of the Landlord and CIR, I am satisfied the Tenant participated in the move-in and move-out inspections and therefore did not extinguish her rights in relation to the security or pet damage deposits under sections 24 or 36 of the *Act*.

Based on the undisputed testimony of the Landlord and CIR, I am satisfied the Landlord complied with her obligations under the *Act* and *Regulations* in relation to the move-in and move-out inspections and therefore did not extinguish her rights in relation to the security or pet damage deposits under sections 24 or 36 of the *Act*.

Based on the undisputed testimony of the Landlord, I am satisfied the tenancy ended February 15, 2020.

Based on the undisputed testimony of the Landlord and CIR, I am satisfied the Tenant provided a forwarding address on the CIR on February 15, 2020.

Pursuant to section 38(1) of the *Act*, the Landlord was required to repay the security and pet damage deposits in full or claim against them within 15 days of February 15, 2020, the date the tenancy ended and the Landlord received the Tenant's forwarding address.

Based on the undisputed testimony of the Landlord, I am satisfied she returned the full pet damage deposit to the Tenant within 15 days of February 15, 2020 and therefore complied with section 38(1) of the *Act*.

The Application was filed February 29, 2020 and therefore within the 15-day time limit for claiming against the security deposit. I find the Landlord complied with section 38(1) of the *Act*.

Section 37 of the *Act* addresses a tenant's obligations upon vacating a rental unit and states:

(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...

Policy Guideline 1 states the following in relation to reasonable wear and tear:

Reasonable wear and tear refers to natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion.

Based on the undisputed testimony of the Landlord, photo, CIR and receipt submitted, I am satisfied the fridge doors were brand new and in good condition at the start of the tenancy.

Based on the undisputed testimony of the Landlord, photos and CIR, I am satisfied there were two small dents in the fridge door at the end of the tenancy. In the circumstances, I am satisfied the Tenant caused these dents.

I am satisfied the dents are beyond reasonable wear and tear as the nature and location of them do not suggest natural deterioration that occurs due to aging or other natural forces. Further, the Tenant did not appear at the hearing to submit otherwise. I am satisfied the Tenant breached section 37 of the *Act*.

I am satisfied the Landlord replaced the fridge door and that this cost \$328.61 based on the receipt in evidence. The Tenant did not appear at the hearing to dispute this amount. I am satisfied the amount is reasonable. I award the Landlord the amount sought.

Given the Landlord was successful in the Application, I award the Landlord reimbursement for the \$100.00 filing fee pursuant to section 72(1) of the *Act*.

In summary, the Landlord is entitled to \$428.61. The Landlord holds \$328.61 of the security deposit and can keep this pursuant to section 72(2) of the *Act*. The Landlord is issued a Monetary Order for the remaining \$100.00 pursuant to section 67 of the *Act*.

Conclusion

The Landlord is entitled to \$428.61. The Landlord holds \$328.61 of the security deposit and can keep this. The Landlord is issued a Monetary Order for the remaining \$100.00. This Order must be served on the Tenant. If the Tenant does not comply with the Order, it may be filed in the Provincial Court (Small Claims) 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: July 08, 2020

Residential Tenancy Branch