



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL / MNSD, FFT

Introduction

On July 4, 2020, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) to request the return of the security deposit and to be compensated for the cost of the filing fee.

On September 16, 2020, the Landlords submitted an Application for Dispute Resolution under the Act. The Landlords requested a Monetary Order for damages, to apply the security deposit to their claim, and to be compensated for the cost of the filing fee. The Landlords’ Application was crossed with the Tenant’s Application and the matter was set for a participatory hearing via conference call.

The Landlords and Tenant attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

Issues to be Decided

Should the Landlords receive a Monetary Order for damages, in accordance with Section 67 of the Act?

Should the Landlords be authorized to apply the security deposit to the claim, in accordance with Sections 38 and 72 of the Act?

Should the Landlords be compensated for the cost of the filing fee, in accordance with Section 72 of the Act?

Should the Tenant receive a Monetary Order for the return of the security deposit, in accordance with Section 38 and 67 of the Act?

Should the Tenant be compensated for the cost of the filing fee, in accordance with Section 72 of the Act?

Background and Evidence

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Both parties agreed to the following terms of the tenancy:

The month-to-month tenancy began on January 16, 2015 and continued until June 30, 2020. The rent was \$1,350.00 and due on the first of each month. The Landlord collected and still holds a security deposit in the amount of \$650.00.

Both parties agreed to the following facts:

The Landlord IS and the Tenant conducted a move-in inspection on January 15, 2015 and signed the Condition Inspection Report.

The Landlord IS and the Tenant conducted a move-out inspection on June 14, 2020 and signed the Condition Inspection Report.

The Tenant provided his forwarding address in writing on the Condition Inspection Report.

The Tenant acknowledged that charges for cleaning and repainting of the two bedrooms would be required and deducted from his security deposit.

Landlord evidence:

The Landlord submitted a monetary order worksheet and made the following claim:

1. 33 hours of cleaning required. Receipt submitted. The Landlords noted that the entire rental unit required cleaning including the appliances and cupboards. The Landlords did not submit pictures of the rental unit as they believed they would not have to based on the Tenant acknowledging that the cleaning was required. The Landlords are claiming damages in the amount of \$660.00.
2. Painting of two bedrooms. Receipt submitted. The Landlords stated that the Tenant had attempted to repair holes in the two bedrooms by putting spackle in them. These holes required sanding and repainting. The Landlords had the

entire rental unit repainted and are claiming a portion of the costs for the bedrooms at \$400.00.

3. Drywall repair. Landlords provided pictures of damage including holes in the walls where doorknobs pushed through and where the Tenant put his knee through the wall. The Landlords stated that the Tenant orally agreed to have the Landlords fix the drywall and that he would be responsible for the cost. An estimate was provided and claim for \$525.00.
4. Cleaning of mini blinds. The Landlord replaced all of the mini blinds in the rental unit as they were not cleaned and in rough condition. The Landlords stated that the new blinds cost \$365.00 and are claiming \$80.00 in damages to put towards the new blinds as the old ones did not have to be cleaned because they were discarded.
5. New vertical blind. The Landlords stated that the Living Room's vertical blind was missing and subsequently replaced at the cost of \$80.25.
6. Oil damage to driveway. The Landlords provided photos of oil damage to the driveway and stated they have a \$1,680.00 quote to repair the driveway. The Landlords acknowledged that the driveway was 23 years old and that they did not make any mention of the condition of the driveway on the move-in Condition Inspection Report. The Landlords are claiming \$500 in damages as a result of the Tenants' car leaking oil.

The Landlords acknowledged that they did not return the security deposit or apply for dispute resolution in a timely manner as they were awaiting estimates for the drywall repair.

Tenant evidence:

1. The Tenant acknowledged that he did agree to the cleaning of his rental unit but was surprised at the total bill. The Tenant stated that he agreed to up to 20 hours of cleaning at \$20.00 an hour.
2. The Tenant did not dispute the claim for painting the two bedrooms.
3. The Tenant did not dispute the claim for the drywall repair.
4. The Tenant agreed that some compensation for the cleaning of the blinds was reasonable and consented to two hours of cleaning.
5. The Tenant admitted to taking the vertical blinds down and replacing them with curtains.
6. The Tenant denied responsibility for the damage to the driveway, stating that it was old and that he was only renting for five years.

The Tenant stated that the Landlords had 15 days to either apply to claim against the security deposit or return it to the Tenant; however, they did not take either of these actions in the appropriate time.

Analysis

Section 67 of the Act establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order the responsible party to pay compensation to the other party. In order to claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof. The Applicant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the Tenancy Agreement or a contravention of the Act on the part of the other party. Once that has been established, the Applicant must then provide evidence that can verify the actual monetary amount of the loss or damage.

After reviewing both parties' evidence, I find that the Landlord has established the following monetary claims:

1. Cleaning. I find that the Landlords provided undisputed testimony that the rental unit required cleaning; however, did not provide any photos to demonstrate the extent of cleaning required. I accept that the Tenant agreed to 20 hours of cleaning and therefore award the Landlords \$400.00 in damages.
2. Painting of two bedrooms. I accept the Landlords' undisputed testimony and the Tenant's consent to compensate the Landlords for damage in the amount of \$400.00.
3. Drywall repair. I accept the Landlord's undisputed testimony and the Tenant's consent to compensate the Landlords for damage in the amount of \$525.00.
4. Cleaning of mini blinds. I find the Landlords provided undisputed testimony that the blinds that they replaced would have required cleaning; however, did not provide any photos to demonstrate the extent of cleaning required. I accept that the Tenant agreed to compensate the Landlords for 2 hours of cleaning in the amount of \$40.00.
5. New vertical blind. I accept that the Tenant agreed to compensate the Landlords in the amount of \$80.25 for a new vertical blind.
6. Oil damage to driveway. I find the Landlords failed to provide sufficient evidence that the Tenant is responsible for the damage of the driveway and as such, have failed to establish a loss pursuant to section 67 of the Act.

Section 38 of the Act states that the landlord has fifteen days, from the later of the day the tenancy ends or the date the landlord received the tenant's forwarding address in writing to return the security deposit to the tenant, reach written agreement with the tenant to keep some or all of the security deposit, or make an Application for Dispute Resolution claiming against the deposit. If the landlord does not return or file for Dispute Resolution to retain the deposit within fifteen days and does not have the tenant's agreement to keep the deposit, or other authority under the Act, the landlord must pay the tenant double the amount of the deposit.

I accept the Tenant's undisputed testimony and evidence that he requested his \$650.00 security deposit and notified the Landlords of his forwarding address on June 14, 2020 in accordance with Sections 88 and 90 of the Act.

I have no evidence before me that the Landlords returned the balance of the security deposit, reached written agreement with the Tenant to keep some of the security deposit or made an Application for Dispute Resolution claiming against the deposit within fifteen days of the tenancy ending. For these reasons, I find the Landlords must reimburse the Tenant double the amount of the outstanding security deposit for a total of \$1,300.00, pursuant to Section 38 of the Act.

After considering the monetary claims and subsequent awards for both parties, I issue a Monetary Order in the Landlords' favour under the following terms, which allows the Landlord to apply the Tenant's (doubled) security deposit to their claim:

Item	Amount
Cleaning	\$400.00
Painting	400.00
Drywall repair	525.00
Compensation for cleaning of mini-blinds	40.00
New vertical blind	80.25
Minus Tenant's doubled security deposit	-1,300.00
Total Monetary Order	\$145.00

As both parties were successful with their claims, I will not be awarding compensation for the filing fee to either party.

Conclusion

Pursuant to Section 67 of the Act, I grant the Landlords a Monetary Order for \$145.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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 *Residential Tenancy Act*.

Dated: October 28, 2020

Residential Tenancy Branch