



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 concerning an application made by the landlords seeking a monetary order for damage to the rental unit or property; an order permitting the landlords to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenants for the cost of the application.

One of the landlords attended the hearing, gave affirmed testimony, and represented the other landlord. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenants joined the call. The landlord testified that each of the 2 tenants was individually served with the Application for Dispute Resolution, notice of this hearing and evidence (the Hearing Package) by registered mail on August 14, 2020. The landlords have provided copies of 2 Canada Post cash registered receipts bearing that date and tracking numbers. I am satisfied that both tenants have been served in accordance with the *Residential Tenancy Act*.

All evidence of the landlords has been reviewed and is considered in this Decision.

Issues to be Decided

- Have the landlords established a monetary claim as against the tenants for damage to the rental unit or property?
- Should the landlords be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord testified that this fixed-term tenancy began on January 1, 2020 and was to expire on December 31, 2020, thereafter reverting to a month-to-month tenancy.

However, on June 27, 2020 the parties mutually agreed in writing to end the tenancy effective July 30, 2020, so the landlord could sell the house. Then the landlord received an email from the tenants on July 8, 2020 stating that the tenants would be vacating July 15, and the tenants moved out of the rental unit on July 15, 2020.

Rent in the amount of \$1,900.00 was payable on the 1st day of each month. At the outset of the tenancy the landlords collected a security deposit from the tenants in the amount of \$950.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is a condominium apartment, and a copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord further testified that when the parties agreed to end the tenancy, the tenants over paid rent by \$100.00 according to their agreement, and the landlord has shown in the monetary worksheet that the landlords currently hold \$1,050.00 in trust, which includes the \$950.00 security deposit.

No move-in or move-out condition inspection reports were completed by the parties, and the landlords received the tenants' forwarding address in an email on August 7, 2020.

The landlords have provided a worksheet setting out the claims and deductions from the claim:

- \$950.00 Total Deposit on Hand; plus
- \$100.00 for a rent overpayment; less:
 - \$1,000.00 labour for painting the suite;
 - \$165.96 to purchase paint;
 - \$762.28 for supplies;
 - \$300.00 for a key fob and parking pass replacement;
 - \$45.75 for Great West Disposal for dump fees;
 - \$24.82 for Save-on Foods;
 - \$100.00 for plumbing; and
 - \$735.00 for a cleaning service.

The landlords' claim is \$3,133.81, less the security deposit and overpayment of rent, for a total claim of \$2,083.81.

The landlord testified that the rental unit was last painted prior to purchase in 2017. The wall paint was nice at that time, however the tenants' dog damaged baseboards. Receipts for the purchase of paint and supplies have been provided for this hearing, and the landlord testified that he purchased paint as it was needed. Air fresheners were needed due to the smell of pet urine. The landlords also paid for the key fob and parking pass

replacement, and claims that amount from the tenants. Photographs have also been provided for this hearing showing that numerous items had been left behind, as well as trash. The tenants didn't return the key and the landlords were required to have the locks re-keyed. Numerous receipts have been provided as evidence for this hearing, which were described in detail by the landlord, where the landlord could, however not all amounts on the receipts could be explained. Also, the landlord specified in his testimony that certain portions of the receipts do not apply to this rental unit, which the landlord does not claim as against the tenants.

Analysis

The *Residential Tenancy Act* specifies that if a landlord fails to ensure that the move-in and move-out condition inspection reports are completed in accordance with the regulations, the landlord's right to claim against the security deposit or pet damage deposit for damages is extinguished. In this case, the landlords did not ensure that the reports were completed, and therefore, I find that the landlords' right to claim against the security deposit for damages is extinguished. However, the landlords' right to make a claim for damages is not extinguished.

The landlord testified that the rental unit had been painted in 2017, but there is no evidence to substantiate that. Also, the useful life of interior painting is 4 years, and given that this tenancy began on January 1, 2020 and ended on July 30, 2020, I am not satisfied that the landlords have established that the tenants should pay for new paint or supplies. I have also reviewed the text messages exchanged between the parties, and note that the landlord advised the tenants that repairs would be required prior to selling. Therefore, I dismiss the landlords' claims for painting and paint supplies and baseboard repair.

I have reviewed the text messages and accept the undisputed testimony of the landlord that the tenants admitted to damage to the door in a text message, and I accept the landlords' **\$139.71** claim.

I further accept the undisputed testimony of the landlord that the tenants did not return the key at the end of the tenancy. The law states that at the request of a new tenant, the landlord must rekey the locks. However, where the tenant at the end of a tenancy doesn't return the keys, the landlord has no other option, and I find that the landlords have established the **\$45.75** claim for the Weiser lock.

The landlords' evidence includes receipts for a new fob and parking passes, and I accept the claim of **\$300.00**.

The landlord testified that when turning water on, it dripped, and that the plumbing invoice is for 3 different units and that only \$134.00 of the bill is for this rental unit. I find that the landlords' monetary worksheet contains an error, in that it claims \$100.00, but the landlord testified that the 2 amounts of \$100.00 each apply to other residences. I accept the undisputed testimony of the landlord, given that the Invoice shows that the \$134.00 amount is for a Condo and the other 2 amounts do not apply to a condo. However, I am not satisfied that any dripping or requirement to hire a plumber was a result of the tenants' failure to comply with the *Act* or the tenancy agreement., and I dismiss this portion of the landlords' claim.

I also accept the landlords' claims of **\$24.82** for air fresheners, considering the text messaging wherein the tenant admits getting a dog without the landlords' consent.

The landlords' photographs show that the rental unit was not left by the tenants reasonably clean at the end of the tenancy, as required by the *Act* and I accept the landlords' evidence of paying **\$735.00** for cleaning.

I find that the landlords have established the following claims totaling **\$1,330.43**:

- \$300.00 for a new key fob and parking passes for 2 parking spots;
- \$24.82 air fresheners due to dog urine smell;
- \$45.75 for dump fees;
- \$139.71 for door damage;
- \$85.15 for the Weiser door lock; and
- \$735.00 for cleaning.

The law also states that a landlord must return a security deposit in full to a tenant within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, or must make an Application for Dispute Resolution claiming against the security deposit within that 15 day period. If the landlord fails to do either, the landlord must repay double the amount. In this case, the landlord testified that the tenants provided a forwarding address to the landlord by email on August 7, 2020. Email does not suffice, and was only permitted by a regulation during the pandemic period, and I decline to order that the landlords repay double the amount.

Since the landlords have been partially successful with the application, the landlords are also entitled to recovery of the **\$100.00** filing fee.

The landlords currently hold a security deposit in the amount of \$950.00 and a \$100.00 overpayment of rent. Having found that the landlords have established a claim totaling **\$1,430.43**, I find it prudent to order that the landlords keep the amounts of \$1,050.00, rather than ordering the landlords to return the security deposit. Therefore, I grant a

monetary order in favour of the landlords for the difference in the amount of **\$380.43** ($\$1,330.43 + \$100.00 = \$1,430.43 - \$1,050.00 = \380.43).

Conclusion

For the reasons set out above, I hereby order the landlords to keep the \$950.00 security deposit and \$100.00 rent overpayment, and I grant a monetary order in favour of the landlords in the amount of **\$380.43**.

This order is final and binding and may be enforced.

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: December 04, 2020

Residential Tenancy Branch