



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNRL-S, MNDL-S, FFL**

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- A monetary award for damages and loss pursuant to section 67;
- Authorization to retain the deposits for this tenancy pursuant to section 38; and
- Authorization to recover the filing fee from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The tenant was assisted by a family member.

As both parties were present service was confirmed. The parties each testified that they were served with the respective materials and based on their testimonies I find service was duly performed in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to retain the deposits for this tenancy/

Is the landlord entitled to recover their filing fee from the tenant?

Background and Evidence

This periodic tenancy began in October 2018 and ended August 31, 2020. The monthly rent was \$1,340.00 payable on the first of each month. A security deposit of \$700.00 and pet damage deposit of \$700.00 were collected at the start of the tenancy and are still held by the landlord.

The parties prepared a condition inspection report at both the start and end of the tenancy. The tenant did not agree with the landlord's assessment of the suite condition at the end of the tenancy and did not authorize any deduction from the deposits.

The landlord submits that there were some unpaid utilities and cleaning work that needed to be performed on the rental unit totaling \$1,948.42. The tenant testified that they agree with all but two items claimed by the landlord. Pesticide costs claimed as \$560.00 and steam cleaning of the rental unit for which the landlord claims \$630.00. The tenant specifically submits that the amount claimed seems excessive and that they have obtained quotes for similar work in the amount of \$165.00 all-inclusive. The tenant also submits that their pet was treated in June 2020 for fleas and questions whether pesticide use was necessary.

The landlord submits that the rental unit required pesticide to be used and a deep steam cleaning of all areas due to the presence of fleas. The landlord said that the person they retained to perform the cleaning and removal of fleas charged the amount claimed and submitted an invoice for the pesticide in the amount of \$560.00 and a returned cheque in the amount of \$630.00 into evidence. The landlord explained that they needed the work to be performed quickly to allow a new occupant to take possession of the rental unit.

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 that 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 claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. A claimant is also responsible for taking reasonable steps to mitigate their losses.

As the parties agree on the portions of the landlord's monetary claim of \$758.42 I issue a monetary award in that amount, accordingly.

I find that the landlord has provided insufficient evidence in support of the full balance of their claim. While I accept that the landlord paid the amount of \$560.00 for pesticide

and \$630.00 for steam cleaning, I am not satisfied that these expenses were incurred as a result of the tenant or that they are wholly reasonable expenditures. While the landlord testified that there were fleas and pests in the rental unit requiring the work, based on the evidence I am not satisfied that the steps taken by the landlord were reasonable under the circumstances. I find both the condition inspection report and the photographs submitted into evidence show some need for cleaning but not to the extent the landlord claims. I find that the purchase of nearly 15kg of pesticide, in 24 aerosol cans and physical form, to be excessive for a 2-bedroom basement suite. The amount of pesticide purchased, and which the landlord testified was used, is significantly high to the extent that it has little air of reality. Similarly, the amount charged for steam cleaning is far in excess of what is reasonable for a bedroom suite and more in line with what would be charged for fully cleaning a large house.

While I appreciate that there was some urgency to the landlord in completing the work to accommodate the next occupants, I do not find it reasonable for the landlord to accept any expenses quoted to them. I find that the expenditures must be reasonable and commensurate with the condition of the rental suite. The inspection report notes some cleaning is required but I find that \$630.00 to be far in excess of what is reasonable to pay for the cleaning of a 2-bedroom suite. While it is not incumbent on the landlord to find the cheapest service or to request quotes from too many providers some due diligence in finding reasonable services is required.

I find that the landlord's expenditure of \$630.00 for steam cleaning services and \$560.00 for pesticide to be losses resulting from the landlord's failure to take reasonable steps to mitigate their expenditures rather than reasonable claims arising from a breach on the part of the tenant.

Nevertheless, I do accept that some work was required on the rental unit. I find a reasonable monetary award for the pesticide and steam cleaning to be \$165.00, the quote obtained by the tenant from a carpet cleaning company and \$15.00, the cost of one can of 400g pesticide as shown on the landlord's invoice. I issue a monetary award in the amount of \$180.00 accordingly.

As the landlord was partially successful in their application I find it appropriate to award partial recovery of their filing fee in the amount of \$50.00.

Pursuant to section 19 of the *Act*, a landlord must not require or accept a security or pet damage deposit that is greater than $\frac{1}{2}$ of one month's rent under the tenancy agreement. If a greater amount is accepted the tenant may recover the overpayment.

I accept the undisputed evidence of the parties that monthly rent was \$1,340.00 and deposits of \$700.00 were accepted and are still held by the landlord. I find that of the \$1,400.00 paid by the tenant as deposits, the security and pet damage deposit comprise \$1,340.00 and there is an overpayment of \$60.00.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$988.42 of the tenant's security and pet damage deposit in satisfaction of the monetary award issued in the landlord's favour. The landlord is ordered to return the deposit balance of \$351.58 and the overpayment of \$60.00 to the tenant.

Conclusion

The landlord is authorized to retain \$988.42 of the deposits for this tenancy.

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 29, 2020

Residential Tenancy Branch