



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Jun Paradise Trading Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCL-S, FFL

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- a monetary order for loss under the Act, the regulation or tenancy agreement, pursuant to section 67;
- an authorization to retain a portion of the tenant's security deposit in satisfaction of the monetary order requested, pursuant to section 72; and
- an authorization to recover the filing fee for this application, under section 72.

I left the teleconference connection open until 1:50 P.M. to enable the tenant to call into this teleconference hearing scheduled for 1:30 P.M. The tenant did not attend the hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

I accept the landlord's testimony that the tenant was served with the application and evidence (the materials) by registered mail on September 22, 2020, in accordance with section 89(1)(d) of the Act (the tracking number is recorded on the cover of this decision). The package was mailed to the forwarding address provided in writing by the tenant.

Section 90 of the Act provides that a document served in accordance with Section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail the tenant is deemed to have received the materials on September 27, 2020, in accordance with section 90 (a) of the Act.

Rule of Procedure 7.3 allows a hearing to continue in the absence of the respondent.

Issues to be Decided

Is the landlord entitled to:

1. a monetary award for compensation for damages caused by the tenant?
2. an authorization to retain a portion of the tenant's security deposit?
3. an authorization to recover the filing fee for this application?

Background and Evidence

While I have turned my mind to the evidence and the testimony of the attending party, not all details of the submissions and arguments are reproduced here. The relevant and important aspects of the claims and my findings are set out below. I explained rule 7.4 to the attending party; it is her obligation to present the evidence to substantiate her application.

The landlord affirmed the tenancy started on December 01, 2017 and ended on August 31, 2020. Monthly rent was \$1,059.00, due on the first day of the month. At the outset of the tenancy the landlord collected a security deposit of \$497.50 and the landlord holds it in trust. The tenancy agreement was submitted into evidence.

The move-in and move-out inspection form (the inspection form) was signed by the landlord and the tenant on the move-in date and by the landlord and the tenant's representative SS on the move-out date. The landlord said the tenant was overseas during the move-out inspection and authorized his representative SS to attend the move-out inspection on his behalf.

The inspection form states the living room, kitchen, bedroom and bathroom were clean when the tenancy started and dirty when the tenancy ended. The inspection form also states: "windows need cleaning; stove, oven & fridge need cleaning, light burnt out; suite need to be thoroughly cleaned".

The landlord stated the tenant did not authorize the landlord to retain the deposit and provided his forwarding address in writing on September 09, 2020.

The landlord paid \$240.00 for cleaning. A receipt was submitted into evidence. The landlord cleaned the 500 square feet rental unit for six hours, as the stove and windows were dirty. Photographs were submitted into evidence.

The landlord paid \$14.00 to replace 3 light bulbs, which were in good condition when the tenancy started and burned when the tenancy ended.

The landlord is claiming for the total amount of \$254.00.

Analysis

Section 7 of the Act states:

Liability for not complying with this Act or a tenancy agreement

7 (1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Residential Tenancy Branch Policy Guideline 16 sets out the criteria which are to be applied when determining whether compensation for a breach of the Act is due. It states:

The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. 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.

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Cleaning

Section 37(2) of the Act states:

Leaving the rental unit at the end of a tenancy

37(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

Residential Tenancy Branch Policy Guideline 1 states:

The tenant is generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard. 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 put in the Residential Tenancy Act.

Based on the inspection form, undisputed testimony, photographs and receipt, I find the tenant did not clean the rental unit at the end of the tenancy and the landlord was required to undertake extensive cleaning.

The payment receipt in the amount of \$240.00 submitted as evidence indicates the cleaning of the rental unit cost \$240.00. I find that \$240.00 is a reasonable amount to clean the rental unit.

As such, I award the landlord \$240.00 in compensation for this loss.

Light bulbs

Residential Tenancy Branch Policy Guideline 1 states:

LIGHT BULBS AND FUSES

2. The tenant is responsible for:

- ☐ Replacing light bulbs in his or her premises during the tenancy,

Based on the inspection form and the undisputed testimony, I find the tenant did not replace the light bulbs that burned during the tenancy and the landlord was required to spend \$14.00 to replace them.

As such, I award the landlord \$14.00 in compensation for this loss.

Filing fee and summary

As the landlord was successful in this application, I find the landlord is entitled to recover the \$100.00 filing fee.

In summary, the landlord is entitled to:

Expense	\$
Cleaning	240.00
Light bulbs	14.00
Filing fee	100.00
Total	354.00

Set-off

Residential Tenancy Branch Policy Guideline 17 states:

The Residential Tenancy Act provides that where an arbitrator orders a party to pay any monetary amount or to bear all or any part of the cost of the application fee, the monetary amount or cost awarded to a landlord may be deducted from the security deposit held by the landlord and the monetary amount or cost awarded to a tenant may be deducted from any rent due to the landlord.

As such, the landlord is authorized to retain the amount of \$354.00 from the deposit to offset the monetary award for losses incurred due to the tenant's non-compliance with the Act. As the landlord confirmed receipt of the tenant's forwarding address, the landlord must return the balance of the deposit of \$143.50.

Conclusion

Pursuant to sections 38, 67 and 72 of the Act, I authorize the landlord to retain \$354.00 from the tenant's deposit in total satisfaction of losses incurred and grant the tenant a monetary award pursuant to sections 38 and 67 of the Act in the amount of **\$143.50**.

The tenant is provided with this order in the above terms and the landlord must be served with this order. Should the landlord fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial 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: January 12, 2021

Residential Tenancy Branch