



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL, MNDCL, FFL

Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution filed under the *Residential Tenancy Act* (the "*Act*") made on October 31, 2020. The Landlords applied for a monetary order for damages or compensation under the *Act*, for a monetary order for monetary loss or other money owed, and to recover the filing fee paid for the application. The matter was set for a conference call.

The Landlords' Agent (the "Landlords"), both Tenants and their Advocate (the "Tenants") attended the hearing, and each were affirmed to be truthful in their testimony. The Landlords and the Tenants were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing.

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.

Issues to be Decided

- Are the Landlords entitled to monetary compensation for damages under the *Act*?
- Are the Landlords entitled to monetary compensation for monetary loss or other money owed?
- Are the Landlords entitled to the return of their filing fee for this application?

Background and Evidence

The tenancy agreement shows that this tenancy began on January 1, 2020, that rent in the amount of \$1,900.00 is to be paid by the first day of each month, and the Landlords had been given a \$950.00 security deposit. Both parties agreed that the move-in inspection had been completed in accordance with the Act for this tenancy. The Landlords provided a copy of the tenancy agreement and move-in inspection into documentary evidence.

The Landlords testified that on September 1, 2020, they received a repair request from the Tenants, advising that the microwave in the rental unit had stopped working. The Landlords testified that they sent a repair technician to the rental unit but that the report they received back stated that the microwave had been damaged beyond repair.

The Landlords testified that the repair technician reported that cooking oil had gotten into the components of the microwave oven, causing it to burnout and that it was recommended that the microwave be replaced. The Landlords provided a copy of the repair technician report and bill into documentary evidence.

The Landlords testified that they attended the rental unit and found the microwave to be covered in cooking oil, and the presence of cooking oil dripping from the range hood vent. The Landlords submitted 10 pictures of the microwave and range vent into documentary evidence.

The Landlords testified that the microwave was only five years old, clean and in good working order at the beginning of this tenancy. The Landlords also testified that they believe that the Tenants had damaged the microwave by allowing their cooking oil to splash and collect on the microwave oven. The Landlords testified that they feel the Tenants are responsible for the repair technician service call bill, in the amount of \$136.45 and the replacement cost for a new microwave, in the amount of \$521.80. The Landlords submitted copies of the service call bill and microwave purchase bill into documentary evidence.

The Tenants testified that they did not feel that the cooking they had been doing had caused the damage the Landlords are claiming for and that the technician that attended the rental unit did not do enough to attempt to repair the microwave. The Tenants also testified that they regularly clean, including the microwave, and that the microwave should be able to handle the oil they cook with.

The Landlords also presented two emails into documentary evidence, testifying that the Tenants' had written in these emails that they do cook with oil.

Analysis

Based on the evidence before me, the testimony of the Landlords, and on a balance of probabilities that:

In this case, the Landlords are seeking their service call and replacement cost for a damaged microwave oven in the amount of \$658.25. Awards for compensation due to damage or loss are provided for under sections 7 and 67 of the Act. A party that makes an application for monetary compensation against another party has the burden to prove their claim. The Residential Tenancy Policy Guideline #16 Compensation for Damage or Loss provides guidance on how an applicant must prove their claim. The policy guide states the following:

"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. 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.

Section 32(2) and 32(3) of the Act set out the requirements of a tenant to maintain and repair the rental property during their tenancy, stating the following:

Landlord and tenant obligations to repair and maintain

32 (2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

I have reviewed the testimony of the Landlords, supported by their picture and email evidence, as well as the service technician report, and I find that on a balance of probabilities, the Tenants had caused the oil damage to the microwave. I find that the Tenants breached section 32 of the *Act* when they damaged the microwave in rental unit.

In this case, I find that the Tenants' breach of section 32 of the *Act* resulted in a loss of \$658.25 to the Landlords, consisting of a \$136.45 service call and the \$521.80 replacement costs for a new microwave. I also find that the Landlords have provided sufficient evidence to prove the value of that loss and that they took reasonable steps to minimize their losses due to the Tenants' breach.

Accordingly, I award the Landlords the full recovery of their costs of **\$136.45** for the service call on the microwave. However, in determining the suitable award for the replacement of the microwave, I must refer to the Residential Tenancy Branch guideline # 40 Useful Life of Building Elements. The guideline sets the useful life of a microwave at ten years.

I accept the Landlords' testimony that the microwave was 5 years old when it was reported damaged. Therefore, I find that the microwave was halfway (50%) through its life expectancy when it was damaged. Accordingly, I find that the Landlords have proven the entitlement of the recovery of 50% of the replacement costs of the microwave, in the amount of **\$262.90**.

Additionally, section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlords have been successful in their application, I find that the Landlords are entitled to recover the **\$100.00** filing fee paid for this hearing.

I grant the Landlords an award of \$499.35, consisting of \$136.45 for the service call, \$262.90 towards the replacement of the microwave, and the recovery of the \$100.00 filing fee for this hearing.

Conclusion

I find for the Landlords under sections 67 and 72 of the Act. I grant the Landlords a **Monetary Order** in the amount of **\$499.35**. The Landlords are provided with this Order in the above terms, and the Tenants must be served with this Order as soon as possible. Should the Tenants 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: February 12, 2021

Residential Tenancy Branch