



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lions Court Management Corp. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S, FFL

Introduction

The landlord filed an application for dispute resolution (the “Application”) on November 10, 2020 seeking an order for compensation for damage caused by the tenant, as well as recovery of the filing fee for the Application.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on March 1, 2021. The tenant and the landlord both attended the hearing, and I provided each with the opportunity to present oral testimony. In the hearing, the tenant stated they received the evidence prepared in advance by the landlord. The tenant did not prepare documentary evidence of their own.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for damages, pursuant to s. 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this Application pursuant to s. 72 of the *Act*?

Background and Evidence

The landlord submitted a copy of the tenancy agreement for this hearing and spoke to its terms. Both the landlord and tenant signed this agreement on November 21, 2017. The tenancy started December 1, 2017 for a one-year fixed term. The tenancy

continued on a month-to-month basis after that. By the end of the tenancy, the monthly rent was \$2,398.50 per month. The tenant paid a security and pet damage deposit of \$1,125.

As presented by the landlord in the hearing, the tenant initiated the ending of the tenancy, and this was “in the approved fashion.” The parties met to review the condition of the rental unit on October 31, 2020, the last day of the tenancy. The landlord’s agent and the tenant’s spouse were present at that meeting.

In the evidence is a document providing details of the state of the unit. For the bathroom, the landlord noted for “Basin, Tub and Tiles”: “repair @ cost – to be reglazed.” Both parties initialled this particular notation, and the tenant’s signature is at the bottom of the document, next to the statement: “I agree to the above deductions.”

The landlord presents that there was damage to the bathtub that needed repair. This is shown in two photos they submitted showing the interior bottom of the tub, showing “The tub has been discolored and marked that cannot come off with cleaning.”

The landlord obtained an estimate from a contractor on the same day of the final inspection. This reply email from the contractor gives the price of \$400 for a “Normal iron bathtub (5ft)”. This was in response to the landlord’s message: “We need a 5 foot tub reglazed.”

On November 10 the landlord emailed to the tenant to give this price. They informed the tenant of a return of \$675 of the security deposit. There is a deduction of \$420 reflective of this tub re-glaze amount provided by the contractor. There is also \$30 deducted from the security deposit for replacement of grout on the bathroom floor.

The landlord submitted that the building was new in 2015, so the particular piece of the bathtub in the unit was new, within 2 years of the tenant moving in. They described the need for glazing, which is a certain type of paint, with any other finish used being “far inferior.” The tub itself was about 5 years old at the time the tenant moved out, and this was not normal wear and tear.

In their response to the landlord’s email, by reply the tenant stated this amount of \$420 was too much. They offered \$200 “to close this situation”. In the hearing the tenant maintained they did not do anything wrong to the bathtub, and when they moved into the unit in 2017 there were “minor black lines” which of course over time would get worse.

Analysis

The *Act* s 37(2) of the *Act* requires a tenant, when vacating a rental unit to leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

The photos provided by the landlord show the need for some work to the tub; however, I am not satisfied that the estimate provided reflects the actual amount of work involved. Therefore, the value is not established.

The estimate provided is not based on an actual visit by the contractor to view the bathtub. There is no indication that the photos available were passed to the contractor for their viewing and there is no record of the landlord describing the problem to the contractor. I find it is not established as fact that the bathtub needs reglazing; rather, the landlord here made an inquiry to a contractor based on a hypothetical.

In line with point 4 above, there is no evidence the landlord sought out other contractors to inquire on the value for the same work. Though the landlord expressed understanding in the hearing that this amount seems high, I find it apparent they did not seek out other pricings, thereby increasing options for the amount needed for the work.

I find the tenant agreed to a cost of \$200. In their email to the landlord on November 10, 2020, they stated this was “to close this situation”. For this reason, I award the landlord the cost of \$200. I commend the tenant on their good graces in granting some amount to the landlord for this issue.

The *Act* s. 72(2) gives an arbitrator the authority to make a deduction from the security deposit held by the landlord. The landlord has established a claim of \$200. They already returned \$675 of the total \$1,125 security deposit to the tenant. This leaves

\$450 outstanding with the landlord. I am authorizing the landlord to keep \$200 and give the tenant the balance of \$250 for the return of the outstanding amount to them.

As the landlord was somewhat successful in this application, I find they are entitled to recover the \$50 filing fee paid for this application. This amount is deducted from the \$250 to return to the tenant.

Conclusion

I grant the tenant a Monetary Order in the amount of \$200 for the return of the balance of their security deposit. The tenant is provided with this Order in the above terms and the landlord must be served with **this Order** as soon as possible. Should the landlord fail to comply with this Order, it 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 s. 9.1(1) of the *Act*.

Dated: March 2, 2021

Residential Tenancy Branch