Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, MNRL-S, FFL

Introduction

This hearing was convened as a result of the landlords' Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act). The landlords applied for a monetary order in the amount of $7,975.00 for unpaid rent or utilities, for damages to the unit, site or property, to retain the tenants' security deposit towards any amount owing, and to recover the cost of the filing fee.

Landlord, AE (landlord) and the tenants attended the teleconference hearing and gave affirmed testimony. The parties were advised of the hearing process and were given the opportunity to ask questions about the hearing process during the hearing. A summary of the testimony and evidence is provided below and includes only that which is relevant to the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As both parties confirmed having been served with documentary evidence from the other party and that they had the opportunity to review that evidence, I find the parties were sufficiently served in accordance with the Act.

Preliminary and Procedural Matters

Firstly, at the outset of the hearing the landlord clarified that the actual monetary claim was $7,529.65, which is lower than the claimed amount of $7,975.00. The parties confirmed that the amount was reduced at the hearing, which I find does not prejudice the tenants.

Secondly, the parties confirmed their respective email addresses during the hearing. The parties confirmed their understanding that the decision would be emailed to the parties. Any applicable orders will be emailed to the landlords for service on the tenants.

Issues to be Decided

- Are the landlords entitled to a monetary order under the Act, and if so, in what amount?
- What should happen to the tenants' security deposit under the Act?
- Are the landlords entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

The parties confirmed that current monthly rent was $1,475.00 per month and is due on the first day of each month. The tenants paid a security deposit of $700.00, which the landlords continue to hold.

The tenancy ended based on an undisputed 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The landlords' reduced monetary claim for $7,529.65, is comprised of the following:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Oven door repair	$244.65
2. Blind cleaning and repair	$100.00
3. Garbage disposal	$10.00
4. Rent arrears from April to August 2020	$7,175.00
TOTAL	**$7,529.65**

Regarding item 1, the landlords have claimed $244.65 for the cost to repair a broken oven door. The landlords presented a Condition Inspection Report (CIR). The incoming portion of the CIR is dated February 11, 2017 and the outgoing portion is dated October 27, 2020. The oven is described in good condition on the incoming portion and "B" for broken on the outgoing portion. While there is no dispute between the parties that the glass on the oven door broke during the tenancy, the tenants stated that they were sitting in the rental unit when they heard a "pop" sound which was the oven door glass cracking, and that they don't feel they are responsible for the cost to repair it.

The landlord stated that the oven was purchased new in January 2017, which the tenants did not dispute during the hearing. The tenants purchased new oven glass and left it at the rental unit, which the landlords confirmed was used to repair the oven glass

door. The cost being claimed, as a result, is for the labour only to install the new oven glass. The female tenant stated that they don't know if it is related, but the oven top was replaced earlier in 2019. The tenants confirmed the oven door broke in February 2020, and the landlord asked why it was not reported at that time, only to be discovered on October 27, 2020 at the outgoing inspection.

There is no dispute that four additional points were added by the landlords to the outgoing inspection, which I will address in my analysis below. The landlords provided a receipt in the amount of $244.65.

Regarding item 2, the landlords have claimed $100.00 for the cost to clean the rental unit blinds and to repair a broken blind cord. The landlord referred to the CIR, which states the blinds were in good condition at the start of the tenancy and "DT" for dirty at the end of the tenancy. There is nothing mentioned on the outgoing portion of the CIR regarding the cord. The landlord stated that they only became aware of the damaged blind cord after the outgoing CIR was completed.

The landlord stated that the blinds were purchased in January 2017, which the tenants did not dispute during the hearing. The landlord referred to a quote which supports that the blinds would be $20.00 per blind and the landlord stated that 3 blinds required cleaning due to staining and a strong smell of marijuana/cigarette smoke. The landlord writes in their application that the entire home had a strong smell of marijuana/cigarette smoke also. The quote also states $40.00 to repair the blind cord.

The landlord stated that they are now residing in the home and the cleaning of the blinds and the repair have not yet been completed. The response from the tenants is that they feel they are not responsible for the cost to clean the blinds and repair the blind cord and that the issue relates to the windows failing and all the moisture from the old windows in the rental unit. The tenants stated that the moisture from the windows dripped on the blinds. The male tenant stated that they were prescribed Ventolin during the tenancy due to the moisture and mould and that since vacating the rental unit is no longer taking Ventolin and was not taking Ventolin before moving into the rental unit.

Regarding item 3, the parties reached a mutually settled agreement on $10.00 for garbage removal. As a result, I will deal with this item later in this decision.

Regarding item 4, the landlords have claimed $7,175.00 for rent arrears as follows:

MONTH	AMOUNT OWING
April 2020	$1,275.00
May 2020	$1,475.00
June 2020	$1,475.00
July 2020	$1,475.00
August 2020	$1,475.00
TOTAL	**$7,175.00**

The landlords testified that the tenants paid $200.00 for April 2020 rent, which is reflected in the table above, resulting in $1,275.00 in rent arrears owing for April, 2020, and then no rent was paid until September 2020. There is no dispute between the parties that the tenants have rent arrears of $7,175.00. The tenants stated that while they wanted to pay the landlord the rent arrears, they do not have the funds currently due to financial hardship.

Analysis

Based on the documentary evidence presented, the testimony of the parties and on the balance of probabilities, I find the following.

Test for damages or loss

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the Act. Accordingly, an applicant must prove the following:

1. That the other party violated the Act, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did what was reasonable to minimize the damage or loss.

In the matter before me, the landlords bear the burden of proof to prove all four parts of the above-noted test for damages or loss.

Firstly, I will deal with the outgoing portion of the CIR. As there is no dispute that four additional points were added by the landlords to the outgoing inspection, I find that by modifying the outgoing CIR after it was completed by the parties, that action invalidates the outgoing CIR as neither party should modify a completed document once the inspection report was completed. I will therefore afford little weight to the outgoing portion of the CIR.

Item 1 - The landlords have claimed $244.65 for the cost to repair a broken oven door. There is no dispute between the parties that the glass on the oven door broke during the tenancy. The tenants also did not dispute the age of the oven, which the landlords described as being new in January 2017. The tenancy began the next month on February15, 2017. While I note the tenants stated that they were sitting in the rental unit when they heard a “pop” sound which was the oven door glass cracking, and that they don’t feel they are responsible for the cost to repair it, I also apply significant weight to the fact that the tenants did not advise the landlords of the oven door damage until the end of the tenancy, when the damage occurred in February 2020.

Furthermore, I afford significant weight to the fact the tenants purchased a new oven door glass, which was left at the rental unit, which is contradictory to their testimony that they did not feel they were responsible. In other words, I find that by purchasing the oven door glass and leaving it at the rental unit only for the damage to the oven door to be discovered at the outgoing inspection, I find that on the balance of probabilities that the tenants, whether intentional or not, caused damage to the oven door and bear the responsibility to repair it. Therefore, I prefer the evidence of the landlords over that of the tenants and I find the landlords have met the burden of proof. I have reviewed the amount of labour to install the oven door glass, and I grant the landlords **$244.65** as claimed. I do not apply depreciation as I find that broken oven door glass does not represent normal wear and tear in relation to an oven.

Item 2 - The landlords have claimed $100.00 for the cost to clean the rental unit blinds and to repair a broken blind cord. While the landlord referred to the CIR, which states the blinds were in good condition at the start of the tenancy and “DT” for dirty at the end of the tenancy, as mentioned above, I afford the outgoing CIR, little weight. However; I afford significant weight to the photographic evidence before me, which I find shows discoloured blinds that I find is consistent with heavy marijuana/cigarette smoke as claimed in the landlords’ application. I find that the tenants’ version of events being water dripping on the blinds would not create the yellowing on the white blinds seen in the photographs before me.

Furthermore, Residential Tenancy Branch (RTB) Policy Guideline 1 states that the tenants are expected to leave the internal window coverings clean when he or she vacates, which I find the tenants failed to do. In addition, section 37(2) of the Act applies and 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, and
>
> [emphasis added]

Based on the photographic evidence before me of the blinds, I find the tenants breached section 37(2) of the Act by failing to have the blinds cleaned and I find the yellowing shown on the blinds to be consistent with heavy smoking inside the rental unit during the tenancy. Therefore, having considered the quote before me, I prefer the evidence of the landlords over that of the tenants, and I find the landlords have met the burden of proof. I also find the amount claimed to be reasonable, and I grant the landlords **$100.00** for the cost to clean and repair the blinds. In reaching this finding, I also considered that the age of the blinds being new in January 2017 was not disputed by the tenants during the hearing. I do not apply depreciation to the amount claimed as I find that heavy smoking during the tenancy would justify the tenants cleaning the blinds, which they provided no evidence of doing during the hearing.

Item 3 – As the parties reached a mutually settled agreement during the hearing for garbage removal in the amount of $10.00, I grant the landlords **$10.00** pursuant to section 63 of the Act.

Item 4 – As the parties agreed during the hearing that the tenants have failed to pay a total of $7,175.00, I find the tenants breached section 26 of the Act, which states that the tenants must pay rent on the date that it is due in accordance with the tenancy agreement. In the matter before me, the rent was due on the first day of each month. Therefore, I find the landlords have met the burden of proof and I grant the landlords **$7,175.00** for rent arrears as claimed and described above.

As the landlords' claim was fully successful, I grant the landlords the recovery of the cost of the filing fee in the amount of **$100.00** pursuant to section 72 of the Act.

Based on the above, I find the landlords have established a total monetary claim of $**7,629.65**, comprised as follows:

ITEM DESCRIPTION	AMOUNT AWARDED
1. Oven door repair	$244.65
2. Blind cleaning and repair	$100.00
3. Garbage disposal **via mutual agreement**	$10.00
4. Rent arrears from April to August 2020	$7,175.00
5. Filing fee	$100.00
TOTAL	**$7,629.65**

Pursuant to sections 38 and 67 of the Act, I grant the landlords authorization to retain the tenants' full security deposit of $700.00, which has accrued $0.00 in interest in partial satisfaction of the landlords' monetary claim. Pursuant to section 67 of the Act, I grant the landlords a monetary order for the pursuant to section 67 of the Act, for the balance owing by the tenants to the landlords in the amount of **$6,929.65**.

I caution the tenants not to breach sections 26 and 37(2) of the Act in the future.

I caution the landlords not to modify a condition inspection report once it has been completed in the future.

Conclusion

The landlords' claim is fully successful.

The landlords have established a total monetary claim of $7,629.65. The landlords have been authorized to retain the tenants' full security deposit of $700.00, which has accrued $0.00 in interest, in partial satisfaction of the landlords' monetary claim pursuant to sections 38 and 67 of the Act.

The landlords have been granted a monetary order pursuant to section 67 of the Act, for the balance owing by the tenants to the landlords in the amount of $6,929.65. This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision will be emailed to both parties. The monetary order will be emailed to the landlords only for service on the tenants.

Both parties have been cautioned as noted above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: March 3, 2021

Residential Tenancy Branch