



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNDCL-S, FFL**

Introduction

This hearing dealt with the landlords' 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 deposit 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 parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

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

Issue(s) to be Decided

Are the landlords entitled to a monetary award as claimed?
Are the landlords entitled to retain the deposit for this tenancy?
Are the landlords entitled to recover the filing fee from the tenant?

Background and Evidence

This fixed-term tenancy began in June 2020 and ended in November 2020. A copy of the signed tenancy agreement was submitted into evidence. Monthly rent was \$1,150.00 payable on the first of each month. Pursuant to the tenancy agreement the rent included heat, water, and electricity. A security deposit of \$575.00 was collected at the start of the tenancy and is still held by the landlords.

The parties prepared a move-in condition inspection report at the start of the tenancy. The tenant declined to meet to perform a move-out inspection together with the landlord due to the risk of Covid exposure. The landlord offered to conduct the inspection via video conference call or to have the tenant have an agent attend in their stead. The tenant declined either of those measures and in the copy of the correspondence submitted into evidence stated:

I think the place has no issues and anyway, you don't need to facetime me or bring witness. Just check tge place and lemme know if there is any deficiency and how much it will cost. I trust you.

The landlord completed the move-out condition inspection report in the absence of the tenant. A copy of the report was submitted into evidence. The landlord submits that the rental unit required some cleaning to be done and claims the amount of \$150.00 for the work performed. The tenant disputes that the rental unit required that level of cleaning. The tenant testified that they agreed to cleaning costs of \$100.00 but feel the \$150.00 charge to be excessive.

The tenant provided the landlord with their forwarding address on December 2, 2020 by text message. The tenant did not provide written authorization allowing the landlord to retain any portion of the deposit for this tenancy. The landlord filed their present application for dispute resolution including authorization to retain the deposit for this tenancy on December 17, 2020.

The landlord submits that the tenant's usage of electrical utilities in the rental unit was excessive to the point of being abusive. The parties submit that the electrical usage began growing in August 2020 after there was an unsuccessful discussion regarding changing the amount of the monthly rent. The landlord submitted into evidence copies of the electrical bills and usage reports as well as video of the rental unit showing that lights, heating and appliances were left on when the tenant was vacant.

The tenant disputes that their usage of electricity was excessive and submits that due to the ongoing Covid pandemic most of their activities including work, schooling and recreation are limited to their home. The tenant says that electrical consumption is bound to be higher during the ongoing pandemic when activities are based from home.

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.

I find the condition inspection report, the landlord's testimony and the photographs submitted into evidence to be sufficient to establish that the rental unit required some cleaning work due to the tenancy. I find that the landlord's description of the costs and nature of the work performed to be reasonable and proportional to the issues listed in the report. While the tenant testified that they believe the amount claimed by the landlord is excessive by \$50.00 I find little support for the tenant's estimate of what is reasonable. I therefore find that the landlord has met their evidentiary onus on a balance of probabilities and issue a monetary award in the amount of \$150.00 for cleaning the rental unit.

I accept the evidence of the landlords that the electrical usage in the rental unit was far in excess of prior years or even the earlier months of the tenancy. I find that while the tenancy agreement provides that electrical utilities are included in the rent that does not allow a tenant to consume electricity beyond what is reasonable for residential usage. I find the evidence of the landlord demonstrates that the usage of electricity in the rental unit was greater than in earlier months of the tenancy or previous years and caused by the tenant's consistent use of lights, heat and appliances in the rental unit.

I accept the evidence of the parties that the landlord issued multiple warnings to the tenant regarding their excessive power consumption which did not curb their behaviour. I accept the landlord's submission that the use of electricity is more than what would be expected simply from the tenant abiding by public health recommendations and

conducting the majority of their activities inside the rental unit. I further accept the evidence of the landlord including video footage and their testimony that power continued to be used in the rental unit even when the tenant was absent. I find that the use of electrical utilities in the rental unit was a conscious choice on the part of the tenant who was aware or was made aware of the egregious nature of their power consumption by the landlord on multiple occasions. I accept that as a result of the electrical usage in the rental unit the landlord incurred significant costs for utilities. I accept the landlord's calculations that the total cost of the excess utilities for the duration of the tenancy is \$451.03 and issue a monetary award in the landlord's favour for that amount accordingly.

As the landlords were successful in their application they are entitled to recover the filing fee from the tenant.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlords to retain the tenant's security deposit in partial satisfaction of the monetary award issued in the landlord's favour

Conclusion

I issue a monetary order in the landlords' favour in the amount of \$126.03, allowing the landlords to recover the cleaning costs, damages and filing fee and retain the security deposit for this tenancy. The tenant must be served with this Order as soon as possible. Should the tenant 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: April 27, 2021

Residential Tenancy Branch