



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPILANO PROPERTY MANAGEMENT SERVICES
LTD and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- an order authorizing the landlord the recovery of the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The tenant acknowledged receipt of evidence submitted by the landlord and gave affirmed testimony. The tenant did not submit any documentation for this hearing.

Issue to be Decided

Is the landlord entitled to a monetary award for damage arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to the recovery of the filing fee?

Background, Evidence

The landlord's testimony is as follows. The tenancy began on March 6, 2017 and ended on December 31, 2020. The tenant was obligated to pay \$1035.00 per month in rent in advance and at the outset of the tenancy the tenant paid a \$487.50 security deposit which the landlord still holds. The landlord testified that the tenant left the unit dirty and

damaged at move out. The landlord testified that the tenant damaged cabinets, doors, walls, bifold doors and tub. The landlord testified that the tenant also damaged the linoleum floor. The landlord testified that the floors and paint was done prior to the tenant moving in. The landlord testified that the damage was far beyond wear and tear and is excessive for a tenancy of this length. The landlord also seeks the cost to have the drapes clean. The landlord testified that written condition inspection reports were conducted with the tenant at move in and move out and clearly shows the difference in condition of the unit.

The landlord is applying for the following:

1.	Repairs and cleaning	\$1358.00
2.	Replace Linoleum	875.00
3.	Drape Cleaning	126.00
4.	Filing Fee	100.00
5.		
6.	Minus Deposit	-487.50
	Total	\$1971.50

The tenant gave the following testimony. The tenant testified that the items the landlord is claiming for items that she requested repairs for during her tenancy. The tenant testified that the landlord has a record of all these requests. The tenant testified that the landlord keeps the deposit and that should be enough for the costs. The tenant testified that she didn't use the drapes so she shouldn't have to pay to clean them.

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 provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I address the landlords claim and my findings as follows.

The landlord provided extensive documentation, signed condition inspection reports, receipts and photos to support their application. Also, the landlord pointed out that the condition inspection reports and photos clearly demonstrate the condition of the unit and excessive damage as he states and not the version provided by the tenant. Although I have turned my mind to Residential Tenancy Policy Guideline 40 and considered the useful life of building elements, the landlord has provided extensive documentation to show that this is not wear and tear but excessive damage that goes well beyond what would be considered reasonable. In addition, the tenant did not dispute the damage was present, but only the cost.

I find that the landlord has provided sufficient evidence to support their claim, accordingly; I find that the landlord is entitled to the entirety of their claim in the amount of \$2459.00 including the filing fee.

Conclusion

The landlord has established a claim for \$2459.00. I order that the landlord retain the \$487.50 security deposit in partial satisfaction of the claim, and I grant the landlord an order under section 67 for the balance due of \$1971.50. This order may be filed in the Small Claims 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: May 17, 2021

Residential Tenancy Branch