



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNDL-S, FFL**

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A Monetary Order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (“*Regulation*”) or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to retain all or a portion of the tenant’s security deposit in partial satisfaction of the Monetary Order requested pursuant to section 72 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

The agent ES attended the hearing for the landlord (“the landlord”) and had the opportunity to call witnesses and present affirmed testimony and written evidence.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 26 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

The landlord provided affirmed testimony that the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on March 19, 2021 and deemed received by the tenant under section 90 of the *Act* five days later, that is, on March 24, 2021.

The landlord provided the Canada Post Tracking Number in support of service. Pursuant to sections 89 and 90, I find the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution on March 17, 2019.

At the start of the hearing, I informed the landlord that recording of the hearing is prohibited under the Rules of Procedure. The landlord confirmed they were not recording the hearing.

The landlord confirmed the email address to which the Decision and any award were to be sent.

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the landlord, not all details are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The landlord provided uncontradicted evidence regarding the tenancy as the tenant did not attend the hearing. The landlord submitted a copy of the agreement and testified as to the following particulars of the tenancy:

ITEM	DETAILS
Type of tenancy	Monthly
Date of beginning	March 1, 2020
Date of ending	February 28, 2021
Monthly rent payable on 1 st	\$1,950.00
Security deposit	\$975.00
Pet deposit	\$200.00
Outstanding rent	\$701.69
Date of application	March 12, 2021

The landlord clarified their monetary claim during the hearing which is summarized in the following table:

ITEM	AMOUNT
Repairs (portion claimed of Invoice submitted for \$1,598.00) and cleaning	\$500.00
CLAIM BY LANDLORD	\$500.00

The landlord testified that a condition inspection was conducted at the beginning of the tenancy, a signed copy of which was submitted. The report indicated the unit was in good condition in all relevant aspects. The parties conducted a condition inspection on moving out, a copy of which was submitted, which indicated damage to walls and lack of cleanliness including appliances.

The landlord repaired the damages, cleaned the unit, submitted an invoice, and requested compensation of a portion of the invoice. The landlord submitted photographs in support of the claims for repairs, painting, and cleaning.

The landlord submitted a comprehensive evidence package supporting all aspects of the claim.

The landlord's claim is summarized as follows:

ITEM	AMOUNT
Repairs and cleaning	\$500.00
TOTAL CLAIM	\$500.00

The landlord returned part of the security deposit on March 12, 2021 in the amount of \$675.00 leaving a balance of \$500.00 which the landlord holds. The landlord requested authorization to apply the security deposit to the award as follows:

ITEM	AMOUNT
Total Claim (above table)	\$500.00
(Less security deposit)	(\$500.00)
MONETARY ORDER REQUESTED	\$0

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

When an applicant seeks compensation under the Act, they must prove on a balance of probabilities all four of the following criteria before compensation may be awarded:

1. Has the respondent party (the tenant) to the tenancy agreement failed to comply with the Act, regulations, or the tenancy agreement?
2. If yes, did the loss or damage result from the non-compliance?
3. Has the applicant (landlord) proven the amount or value of their damage or loss?
4. Has the applicant done whatever is reasonable to minimize the damage or loss?

The above-noted criteria are based on sections 7 and 67 of the Act, which state:

7 (1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

...

67 Without limiting the general authority in section 62 (3) [. . .] if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Each of the above four tests are considered in my findings.

I give substantial weight to the landlord's evidence which was complete and well-prepared.

Based on the uncontradicted credible evidence of the landlord, I find the landlord has met the burden of proof on a balance of probabilities with respect to all aspects of the claims. I find the tenant failed to reimburse the landlord for reasonable expenses for which the tenant was responsible contrary to the tenancy agreement and the Act.

I accept the landlord's evidence and I find the tenant did not leave the unit in a reasonably clean condition as required under section 32. I also accept the tenant damaged the unit and did not meet the tenant's obligation to repair under section 32 of the Act, as follows:

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.

32(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 find the tenant's breach of the Act caused the landlord to incur the expenses claimed for which the landlord fairly seeks compensation. I accept the landlord's evidence that they made reasonable efforts to mitigate loss and reduce expenses. I find they incurred the reasonable costs for which they seek reimbursement.

I find the landlord has met the burden of proof with respect to the expenses claimed.

Therefore, I find the landlord is entitled to a Monetary Order pursuant to section 67 in the amount of **\$500.00** as compensation for the damages and loss as set out in the following table:

ITEM	AMOUNT
Repairs and cleaning	\$500.00

TOTAL CLAIM	\$500.00
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Further to the offsetting provisions under section 72, the landlord is entitled to apply the security deposit to satisfy the monetary award. The landlord is awarded a Monetary Order as set out in the following table:

ITEM	AMOUNT
Total Claim (above table)	\$500.00
(Less security deposit)	(\$500.00)
MONETARY ORDER	\$0

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: August 09, 2021

Residential Tenancy Branch