



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 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.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me;

however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Is the landlord entitled to a monetary award for damage or loss 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 January 31, 2017 and ended on April 29, 2021. The rent of \$2960.00 was due on the first of each month. At the outset of the tenancy the tenants paid a security deposit of \$1445.00 which the landlord still holds in trust. Written condition inspection reports were conducted at move in and move out. The landlord testified that the tenants left the unit extremely dirty at move out and that the incoming tenants were very upset with the condition of the unit.

The landlord testified that the incoming tenants arranged for cleaners to clean the unit at a cost of \$660.00. GK testified that the tenant was provided a cleaning checklist which they refused to do some of the items. GK testified that she offered RF the opportunity to address the cleaning issues, but he refused. The landlord testified that she seeks the \$660.00 to clean the suite along with the \$100.00 filing fee for a total of \$760.00.

The tenant gave the following testimony. The tenant testified that he does agree that some areas of the unit were overlooked but feels "around \$100.00" is an appropriate amount to cover the cleaning costs. The tenant testified that the landlord's standard of cleaning was completely unreasonable and far exceeded what is required of the tenants under the Act. The tenant testified that GK was hostile and unreasonable at the move out inspection and that the matter could have and should have been resolved without the necessity of a hearing, but the landlord was unreasonable in her demands and standard for cleaning the unit.

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.

Residential Tenancy Policy Guideline 1 addresses the issue before me as follows:

*This guideline is intended to clarify the responsibilities of the landlord and tenant regarding maintenance, cleaning, and repairs of residential property and manufactured home parks, and obligations with respect to services and facilities¹. The Landlord is responsible for ensuring that rental units and property, or manufactured home sites and parks, meet "health, safety and housing standards" established by law, and are reasonably suitable for occupation given the nature and location of the property. The tenant must maintain "reasonable health, cleanliness and sanitary standards" throughout the rental unit or site, and property or park. The tenant is generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard. The tenant is also generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest. **The tenant is not responsible for reasonable wear and tear to the rental unit or site (the premises)², or for cleaning to bring the premises to a higher standard than that set out in the Residential Tenancy Act or Manufactured Home Park Tenancy Act (the Legislation).***

I do agree that the tenant overlooked some items in the unit that required extra cleaning that should have been addressed by the tenant. However, I do find that the standard imposed by the landlord does exceed what is noted above. I further find that that \$40.00 an hour paid by the landlord to the cleaners is reasonable, but the number of hours spent cleaning the unit is unreasonable. The 16.5 hours spent was done to give the unit a deep clean that was beyond what the tenants were responsible for. Based on all of the documentation before me, I find that the appropriate number of hours to address the deficiencies in the unit that the tenant is responsible for is 8 hours x \$40.00 per hour = \$320.00. The landlord is also entitled to the recovery of the \$100.00 filing fee for this application.

Conclusion

The landlord has established a claim for \$420.00. I order that the landlord retain that amount from the security deposit in full satisfaction of the claim and return the remaining \$1025.00 to the tenants. I grant the tenants an order under section 67 for the balance due of \$1025.00. 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: November 16, 2021

Residential Tenancy Branch