



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the “Act”), for a monetary order for unpaid rent, for damages to the unit, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing. Both parties confirmed under affirmation they were not recording the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Preliminary Issue

The tenant stated that the landlord keeps spelling the co-tenants surname wrong as it starts with an “I” not and “O”. In this case the tenancy agreement shows the tenant’s surname with and “O” and is supported by the digital signature. However, due to the discrepancy, I have added the other spelling as an also known as in the style of cause.

Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to monetary compensation for damages?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy agreement shows that the tenancy began on July 1, 2020. Rent in the amount of \$1,850.00 was payable on the first of each month. The tenants paid a security deposit of \$925.00. The tenancy ended on May 31, 2021.

The landlord claims as follows:

a.	Unpaid rent for December 2020	\$1,850.00
b.	Broken mirror door	\$ 785.00
c.	Filing fee	\$ 100.00
	Total claimed	\$2,735.00

The landlord's agent testified that rent for December 2020 was not paid. The landlord seeks to recover unpaid rent in the amount of \$1,850.00.

The landlord's agent testified that at the end of the tenancy that there was a crack in one of the closet mirrored doors. The agent stated that do not have any firsthand knowledge on the history of the doors. The agent stated that the actual cost to make the repair was the amount of \$628.00. The landlord seeks to recover the reduced amount to repair the door in the amount of \$628.00.

The tenant testified that their rent for December 2020, was NSF. The tenant stated that they informed the landlord to put through the transaction again. However, it appears from their bank records that this was never done.

The tenant testified that the closet door was always an issue during the tenancy because it was not installed correctly, and the frame of the door would hit the mirrored door. The tenant stated that it was not broken by their actions on neglect.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I find rent for December 2020 was not paid. This is supported by the testimony of both parties. Therefore, I find the landlord is entitled to recover unpaid rent for December 2020, in the amount of **\$1,850.00**.

Leaving the rental unit at the end of a tenancy

37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant

is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

In this case, this is a double interior door that is covered with a mirror on each door. I accept the mirror on one of the doors is cracked as this is supported by the photographs. The evidence of the tenant was that this door and the mirror were an issue during their tenancy as it was not installed correctly. I find this is probable because the photographs provided as evidence by the landlord does appear to show that the mirror could be hitting on the door frame. Further, the photographs show that when the doors are closed, that the mirrors connect, and there is no buffer in between and you can see minor chipping of the mirrors along the edge where they connect. This could be an installation problem, design fault, or the chipping could occur from reasonable use and considered normal wear and tear, which could lead to the mirror cracking. I have no evidence before me that this was caused by the neglect of the tenants. Therefore, I dismiss this portion of the landlord's claim.

I find that the landlord has established a total monetary claim of **\$1,950.00** comprised of the above-described amount and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of \$925.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the Act for the balance due of **\$1,025.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The tenants are cautioned that costs of such enforcement are recoverable from the tenants.

At the end of the hearing the tenant stated that they had also paid a pet damage deposit, which should be applied to the amount owed. The landlord's agent indicated that their rent ledger and the tenancy agreement does not support that a pet damage deposit was paid.

The parties agreed that the tenant will send the landlord's agent copies the email exchange between the prior landlord's agent, copies of the etransfer showing that it was sent to the landlord's email address and that it came out of their bank account. The landlord's agent stated that they will review those documents and if they are satisfied a pet damage was paid, they will deduct that amount from the monetary order.

Conclusion

The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due. Should a pet damage deposit be proven to be paid the landlord can keep that amount and apply it to the balance due.

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: December 06, 2021

Residential Tenancy Branch