



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Mainstreet Equity Corp.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S, FFL

Introduction

The Landlord filed an Application for Dispute Resolution (the “Application”) on July 8, 2021 seeking an order for compensation for damage, and for the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on January 24, 2022. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The Landlord attended the telephone conference all hearing; the Tenant did not attend.

Preliminary Matter – service to the Tenant

To proceed with this hearing, I must be satisfied that the Landlord made reasonable attempts to serve the Tenant with this Notice of Dispute Resolution Proceeding. This means the Landlord must provide proof that they served the document at a verified address allowed under s. 89 of the *Act*, and I must accept that evidence.

In the hearing, the Landlord set out how they used registered mail for the address that the Tenant provided on the final meeting on the day of their move out from the rental unit. This is shown in the Condition Inspection Report signed by the Tenant on June 30, 2021. The Landlord stated they used this address for registered mail they sent on July 24, 2021. The tracking number for that registered mail is shown from the Canada Post receipt of that date. This package included the entirety of the Landlord’s prepared document evidence they prepared for this hearing.

The Landlord provided they heard nothing from the Tenant since the move out date.

I accept the Landlord's testimony that the hearing material was sent via registered mail. This is as the *Act* allows. Based on the submissions and proof of the Landlord, I accept they served notice of this hearing and their evidence in a manner complying with s. 89(1)(c) of the *Act*. After reviewing this with the Landlord, I am satisfied the Landlord advised the Tenant of this hearing in due course. The hearing thus proceeded in the Tenant's absence.

Issues to be Decided

- Is the Landlord entitled to a monetary order for compensation for damage, pursuant to s. 67 of the *Act*?
- Is the Landlord entitled to recover the filing fee for this Application pursuant to s. 72 of the *Act*?

Background and Evidence

The Landlord provided a copy of the tenancy agreement and spoke to its relevant terms in the hearing. The Tenant signed the agreement on June 1, 2017, jointly with the building manager. This was for the tenancy that started on June 1, 2017. The monthly rent amount was \$850, payable on the 1st of each month. The tenant paid an initial security deposit of \$425.

The tenancy ended on June 30, 2021. The Tenant advised the Landlord of their desire to end the tenancy on May 26, 2021. The Tenant signed the agreement as notice to the Landlord, that which states: "I will be cleaning the apartment as to leave it in good condition."

The Landlord completed a Condition Inspection Report based on their inspection of the rental unit together with the Tenant on June 30, 2021. The Tenant signed the document, to indicate they "do not agree that this report fairly represents the condition of the rental unit." The Landlord indicated the amount of \$170 as a deduction from the security deposit. This was based on "scuffs on 3 walls & oven & stove top a bit dirty."

The Landlord completed a comprehensive unit inspection checklist. This provides several photos showing the state of each room and appliance in the unit. This shows 4 scuffs on walls, as well as minor cleaning on the stovetop and inside the oven. In the hearing, the Landlord described these amounts as a reduced amount based on they

way they would normally charge for any necessary painting. Normally they charge \$75 per wall, and typically the oven/stove cleaning is a \$40 job.

An invoice in the Landlord's evidence shows the entire rental unit was painted on July 10, 2021.

Adding a \$100.00 Application filing fee for this hearing, the total amount of the landlord's claim is \$270. The Landlord seeks to keep this amount from the security deposit, pledging to return the remaining amount from the deposit to the Tenant via cheque.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide enough evidence to establish **all** of the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

As set out above, the Landlord's worksheet identifies two areas: minor painting and oven/stove clean-up. To determine the Landlord's eligibility for compensation, I carefully examine the evidence they have presented for each item, to establish whether they have met the burden of proof.

On repairs, the *Act* s. 37(2) requires a tenant, when vacating a rental unit to leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

To assess amounts for damages in the rental unit, I find as follows:

- The Landlord established that minor paint touch-ups were necessary. I find this a reasonable cost for the Tenant to bear, in light of the normal amount the Landlord would otherwise charge.
- The oven clean-up was very minor, and I find the very small fee the Landlord imposes is reasonable.
- The Landlord provided sufficient photo evidence to show the need for this work.

The landlord has properly made a claim against the security deposit and have the right to do so. I find the amount of the deposits, as authorized by the *Act*, was \$425. The Landlord is holding this amount. I order the amount of \$170, plus the \$100 Application fee, deducted from the total of security deposit. This brings the amount to be returned to the Tenant to \$155. Applying the security deposit to amounts owing by a Tenant is permissible by s. 72(2)(b) of the *Act*.

Conclusion

Pursuant to s. 67 and s. 72 of the *Act*, I grant the Landlord an award of \$270.

I grant the Tenant a Monetary Order in the amount of \$155 for the security deposit amount to be returned to them. The Tenant is provided with this Order in the above terms, and they must serve the Landlord with **this Order** as soon as possible. Should the Landlord fail to comply with this Order, the Tenant may file this Order in the Small Claims Division of the Provincial Court where it will be 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 s. 9.1(1) of the *Act*.

Dated: January 24, 2022

Residential Tenancy Branch