



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNDCL-S, MNDL, FFL**

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 utilities, for damages to the unit, for an order to retain the security deposit in partial satisfaction of the claim and recover the cost of 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. All parties confirmed under affirmation that 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.

Issues to be Decided

Are the landlords entitled to a monetary order for unpaid utilities?
Are the landlords entitled to monetary compensation for damages?
Are the landlords entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The parties agreed that the tenancy began on October 1, 2020. Rent in the amount of \$1,500.00 was payable on the first of each month. The tenant paid a security deposit of \$750.00. The tenancy ended on April 30, 2021.

The landlords claims as follows:

a.	Unpaid utilities	\$141.07
b.	Damages (paint)	\$325.00
c.	Filing fee	\$100.00
	Total claimed	\$566.07

The landlords testified that the tenant owed the amount of \$141.07 for unpaid utilities at the end of the tenancy. The landlord stated this amount was agreed to be taken from the security deposit and the balance of \$608.93 was returned to the tenant.

The tenant does not deny they owed utilities and balance of the security deposit was returned.

The landlords testified that the tenant painted the rental unit in bold colours and with racing stripes, even after being told they were not allowed to paint. The landlord stated it looked like a gymnasium. The landlords stated they had to repaint the rental unit back to the original colour. The landlords stated that they are only claiming the cost of materials and no labour. Filed in evidence are photographs of the rental and receipts.

The tenant testified that they did paint the rental unit. The tenant stated they were not given the opportunity to repaint it.

The landlords testified that they did not want the tenant to return to the rental unit to repaint. The landlords stated that the painting that the tenant did do was substandard.

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.

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.

How to leave the rental unit at the end of the tenancy is defined in Part 2 of the Act.

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.

The landlord has recovered the cost of the utilities as it was kept from the security deposit and the balance was returned to the tenant. Therefore, I find the landlord is entitled to keep that amount of \$141.07.

In this case, the tenant painted the rental unit without the consent of the landlord. The photographs show bold colours were used and the painting was substandard. I find the tenant breached the Act when they changed the premises without the consent of the landlords.

I further find it reasonable that the landlords did not want the tenant to do any further painting after the tenancy ended. This is reasonable based on the substandard painting that the tenant did to the premises. Further, the landlords are only claiming the cost of materials and not any labour although they were entitled to do so. I find the landlords are entitled to recover the materials that they had to pay to bring the rental back to its original condition in the amount of **\$325.00**.

I find that the landlords have established a total monetary claim of **\$425.00** comprised of the above described amount and the \$100.00 fee paid for this application. I grant the landlords an order under section 67 of the Act. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlords are granted a monetary order in the above noted amount

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: March 14, 2022

Residential Tenancy Branch