



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

The Landlord filed an Application for Dispute Resolution on August 14, 2021 seeking compensation for damages to the rental unit, unpaid rent, and other money owed. Additionally, the Landlord seeks reimbursement of 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 February 28, 2022.

Both parties attended the conference call hearing. I explained the process and both parties had the opportunity to ask questions and present oral testimony during the hearing. Each party confirmed they received the prepared documentary evidence of the other in advance; on this basis the hearing proceeded as scheduled.

Issues to be Decided

Is the Landlord entitled to compensation for damages to the rental unit, unpaid rent, and/or other money owed, pursuant to s. 67 of the *Act*?

Is the Landlord entitled to reimbursement of the Application filing fee, pursuant to s. 72 of the *Act*?

Background and Evidence

The Landlord provided a copy of the tenancy agreement and both parties in the hearing confirmed the basic details. The tenancy started on September 1, 2020 and both Tenants (hereinafter the “Tenant”) moved out prior to the fixed-term date of August 31.

The Tenant paid \$2,050 per month and this amount did not increase over the course of the tenancy. The Tenant paid a security deposit of \$1,000 and a pet damage deposit of \$500. A signed addendum to the tenancy agreement provides for “no pets without written permission from the landlords” and [Tenant] Responsible for any damage caused by a pet.”

The Landlord also provided a “Tenant’s Move-Out Clean-up Checklist”. As written on the document, it was to be completed by the Tenant and presented to the Landlord at the time of the final move-out inspection meeting. The parties met together to review the condition of the rental unit at the start of the tenancy. Evidence of this is the Condition Inspection Report (the “report”), bearing the parties’ signatures for that initial meeting that took place on August 29, 2020.

One of the Tenants sent the Landlord a message on July 16 to say they would be moving out. After this, the Landlord issued a 10-Day Notice to End Tenancy for Unpaid Rent to the Tenant on August 3, 2021 when the Tenant did not pay that month’s rent on August 1. That set the end-of-tenancy date for August 13, 2021. One Tenant moved out at the end of July; the other Tenant noted they did provide 30 days’ notice to the Landlord that the tenancy was ending. According to the Tenant, on this basis there was no unpaid amount of rent still existing because they had explained the security deposit would constitute the final month of rent, being one-half the amount of the full rent.

In the hearing the Tenant presented they left prior to the set end-of-tenancy date that was halfway through August. They were, in effect, “still on the lease” until August 15. Their understanding was that the security deposit would be the one-half month final rent. The Landlord stated they did not recall this discussion with the Tenant.

The Landlord claims \$2,050 for the month of August, where one Tenant moved out at the end of July 2021, then the other Tenant moving out on August 12, 2021. This is against the agreement fixed term to the end of August 2021. The Landlord also claimed \$2,050 for the rental income they could not receive in the following month of September. This was due to the rental unit repairs from damage extending into that following month.

The final meeting took place on August 12, 2021. As noted by the Tenant in the hearing, the other Tenant who lived there signed the report on their behalf at that meeting, and they objected to this via email to the Landlord on that date. The Landlord provided a message to the Tenant dated August 6 and they notified the Tenant that another party could attend on their behalf, this after attempts at scheduling did not work.

The report, bearing the other Tenant's signature, indicates that the Tenant agreed to the deduction of the \$1,000 security deposit, and the \$500 pet damage deposit. The report listed "water damage to laminate flooring in small hallway office area" and "major water damage to laminate flooring in master bedroom."

The Landlord submitted a Monetary Order Worksheet they completed on December 21, 2021. They gave various estimates for work on the floors and two estimates for cleaning. In the hearing, the Landlord clarified the final amount in their claim and set this out specifically on a separate sheet. The Landlord provided photos to justify the individual pieces of their claim for damage to the rental unit.

The Landlord's claim is as follows:

#	Items	\$ claim
1	floor replacement cost	4,112.33
2	cleaning	475.00
3	painting walls & baseboard	485.62
4	unpaid utility bill	144.05
Total		5,217.00

I reviewed the individual pieces of the claim in detail with the parties in the hearing. The Landlord presented their receipts, their photos, and gave a description of their rationale for claiming these amounts from the Tenant. The Tenant responded to the points raised by the Landlord.

- 1 The Landlord claims this amount based on the cost of flooring that was installed in the rental unit in 2020. The total floor cost for laminate and underlay, based on 566.96 square feet of damaged area, is \$1,581.13. The Landlord provided the order from 2020 to show these values they paid for the original floor installation at this price.

The Landlord also added the cost of removal and installation of flooring. This was based on the square feet area, with the amount verified in an estimate from another floor installer. This amount is \$2,531.20, including tax.

The Landlord provided photos to show the damage area of flooring in question. They provided separate photos showing damage to the main bedroom entrance, and photos of the underlay with laminate removed, showing moisture marks

underneath. They provided similar photos for the floor damage in the middle of the living room.

They reiterated the flooring was newly renovated before renting to the Tenant here. They clarified this was the entry into the master bedroom, damage in the living room area, and the office space. The second Tenant was present in the final inspection meeting; additionally, the Tenant here did a walkthrough about one week prior to their move out.

The Tenant responded by stating their offer to the Landlord of the \$500 pet damage deposit for the damage to the area just inside the master bedroom doorway. They were not responsible for replacing the flooring in the entire unit. The Tenant provided their own photo that shows floor damage to a discrete area in the main bedroom. There were also wider photos showing areas of flooring in the main bedroom.

The report bears another notation, stating “water damage in doorway area and small spots in hallway master bed.” This is in the area on the report where the Tenant provides a reason why they did not agree with the report representing the condition of the rental unit.

- 2 The Landlord presented a number of photos showing the state of the rental unit after the Condition Inspection Meeting. The Landlord also provided a receipt dated September 7, 2021 for cleaning to the rental unit, in the amount of \$475. This is noted to be a flat rate for cleaning and the time noted is 4 hours.

The Tenant provided their own photos showing wider-angle images of rooms in the rental unit. These do not capture the level of detail as shown in those of the Landlord. The Tenant submitted that the cost of a regular clean should be borne by the Landlord in order to re-rent the unit.

- 3 The Landlord presented an invoice dated September 9, 2021. This was for painting the interior of the unit, and “repair and sand, dust and paint areas that were damaged” – “prep and pain all baseboards, trim and doors.” The total amount of time was 18.5 hours, totalling \$485.62.

The Landlord’s photos show miscellaneous areas throughout the rental unit, with walls in different rooms. The baseboard damage is confined to the patio door

entrance, and one area in the bathroom with the baseboard damaged from water.

The Tenant did not specifically address baseboards or the need for paint on the walls during the hearing.

Analysis

I find the parties had a fixed-term tenancy agreement in place to August 31, 2021. The Tenant seeking to end the tenancy early does not nullify the binding terms of this agreement.

The provision in the *Act* setting out how a tenant may end a fixed-term tenancy is s. 45(2). A tenant may give a landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice, is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and is the day before the day in the month that rent is payable under the tenancy agreement.

In this case, I find the evidence is clear that the Tenant provided their notice on July 16. One Tenant left at the end of July; the other left approximately two weeks later in mid-August.

Under the *Act* and the tenancy agreement, the Tenant was obligated to give notice to end the tenancy for an effective date in line with s. 45(2). Moreover, the Tenant was legally obligated to pay rent for that full calendar month; they are not entitled to instruct the Landlord to use the security deposit for the interim period. I accept the evidence before me that the Tenant here did not advise the Landlord of the end-of-tenancy on a valid date. The Tenant did provide at least 30 days' notice; however, the mid-August date did not satisfy the other two imperatives set in s. 45(2). Both the incorrect end-of-tenancy date and the following non-payment of rent are breaches of the *Act*. The Landlord's loss results from this breach; therefore, I find the Landlord is entitled to the full amount of August rent. This is \$2,050.

The Tenant who attended the hearing raised their concern and objection to the other signing the report on their behalf. This does not invalidate the document, or the condition inspection meeting. As provided for in the Residential Tenancy Policy Guideline 13 – that which gives a statement of the policy intent of the *Act* – co-tenants are jointly and severally responsible for meeting a tenancy agreement's terms and

share those legal obligations. Thus stated, the one Tenant signing on behalf of the other is legally valid and the Landlord is not precluded from relying on a single Tenant's signature based on the other's preference.

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, and give the landlord all the keys and other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

To be successful in a claim for compensation for damage or loss the Applicant has the burden to provide enough evidence to establish 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, all of the Landlord's claim is for renewing the state of the rental unit to what it was pre-tenancy. In regard to each separate item listed above:

- 1 I grant the Landlord the full amount of the security deposit, as well as the pet damage deposit as the award for the claim for floor damages. I reviewed the evidence and find the pictures show obvious damage to the floor area that the Tenant admitted to. This is the entrance to the bedroom. I find the damage does not extend into the master bedroom as the Landlord claims. I proportion one-third of the Landlord's claimed amount for these damages, owing to the Tenant's acceptance of damage they caused. Beyond that, I am not satisfied the damage as claimed is attributable to the actions or inactions of the Tenant. I grant the Landlord \$1,500 for this section of their claim.
- 2 I am not satisfied of the legitimacy of the Landlord's amount paid for clean-up after the Tenant moved out. It is not known why the Landlord obtained cleaning services some time after work on the floor was completed. Given the nature of the work involved on floors, I cannot connect the later-dated invoice they presented to the immediate need for clean-up after the Tenant departed in mid-August. I find this is not a legitimate clean-up cost where the invoice provided does not specify all the work involved. For example, there is no reference to separate rooms, or if the cleaning was undertaken for reasons shown in the

Landlord's photos. Additionally, the amount of work involved is not provided on that invoice. I appreciate there was some need for clean-up involved after the tenancy; however, I find the Landlord has not minimized their claim, or provided enough particulars, where the clean up evidently took place after a larger floor replacement job.

- 3 I am not satisfied of the need for painting throughout the rental unit to the extent the Landlord paid for. This invoice does not specify the areas within the unit requiring painting, and the Landlord did not set that out separately in their evidence. There are not a significant number of photos justifying the need to paint the interior of the unit, trim, or doors. I find there is only one baseboard damaged significantly, in the bathroom, and this warrants a nominal cost. The baseboard on the patio entryway is a high-frequency foot traffic area; in any event, it is likely to get damaged. I find that particular baseboard damage is insignificant and attributable to reasonable wear and tear. I award the Landlord \$50 for the replacement of the bathroom baseboard, and no other amounts for painting, baseboards, trim or doors.
- 4 The Tenant in the hearing agreed to this amount owing. I so award the amount \$144.05 to the Landlord.

The Landlord claimed the full amount of rent for September \$2,050. They did not present when they were able to re-rent the unit to new tenants, or if they chose to do that. Additionally, I find it reasonable that repairs to the flooring, with foresight, could have been completed by the end of August. Above, I set out that I was not satisfied the extent of floor replacement undertaken by the Landlord was necessary. This logic carries into this finer point of timing for that work. For this reason, I dismiss the Landlord's claim for September 2021 rent.

In total, I find the Landlord has established a claim of \$3,744.05. This is based on a review of the available evidence and the parties' testimony.

The *Act* s. 72(2) gives an arbitrator the authority to make a deduction from the security deposit and/or pet damage deposit held by a landlord. The Landlord here has established a claim of \$3,744.05. After setting off the security deposit \$1,000 and the pet damage deposit \$500, there is a balance of \$2,244.05. I am authorizing the Landlord to keep the security deposit and pet damage deposit amounts and award the balance of \$2,244.05 as compensation for the rental unit damage claim.

Because the Landlord was for the most part successful in their claim, I find they are eligible for reimbursement of the Application filing fee. I add this \$100 fee to the Monetary Order.

Conclusion

Pursuant to s. 67 and 72 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$2,344.05 for compensation set out above and the recovery of the filing fee for this hearing application. I provide this Monetary Order in the above terms and the Landlord must serve the Monetary Order to the Tenant as soon as possible. Should the Tenant fail to comply with the Monetary Order, the Landlord may file it 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: March 14, 2022

Residential Tenancy Branch