



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlords on September 14, 2021 (the “Application”). The Landlords applied as follows:

- For an order that the Tenants pay to repair the damage that they, their pets or their guests caused during their tenancy
- To keep the security and pet damage deposits
- For reimbursement for the filing fee

The Landlords appeared at the hearing. Nobody appeared at the hearing for the Tenants. I explained the hearing process to the Landlords. I told the Landlords they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The Landlords provided affirmed testimony.

The Landlords submitted evidence prior to the hearing. The Tenants did not submit evidence. I addressed service of the hearing package and Landlords’ evidence.

The Landlords testified that the hearing package and their evidence were sent to the Tenants on September 25, 2021, by registered mail to a forwarding address provided by the Tenants. The Landlords submitted documentary evidence of service which includes Tracking Numbers 156 and 173. I looked Tracking Numbers 156 and 173 up on the Canada Post website which shows the packages were delivered September 28, 2021.

Based on the undisputed testimony of the Landlords, documentary evidence of service and Canada Post website information, I am satisfied the Tenants were served with the

hearing package and Landlords' evidence in accordance with sections 88(d) and 89(1)(d) of the *Act*. Based on the Canada Post website information, I am satisfied the Tenants received the hearing package and Landlords' evidence September 28, 2021. I am also satisfied the Landlords complied with rule 3.1 of the Rules in relation to the timing of service.

The Landlords were given an opportunity to present relevant evidence and make relevant submissions. I have considered all testimony provided and reviewed the documentary evidence submitted. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Are the Landlords entitled to an order that the Tenants pay to repair the damage that they, their pets or their guests caused during their tenancy?
2. Are the Landlords entitled to keep the security or pet damage deposits?
3. Are the Landlords entitled to reimbursement for the filing fee?

Background and Evidence

The Landlords sought the following compensation:

Item	Description	Amount
1	Screen repair	\$340.00
2	Shower head and sink taps damage	\$250.00
3	Clothing rod damage	\$200.00
4	Garage door opener	\$129.50
5	Specialty light bulb	\$50.00
6	Filing fee	\$100.00
	TOTAL	\$1,069.50

A written tenancy agreement was submitted as evidence. The tenancy started July 30, 2020. The Tenants paid a \$1,250.00 security deposit and \$1,250.00 pet damage deposit.

The Landlords testified as follows.

The tenancy ended August 31, 2021.

The Tenants provided their forwarding address to the Landlords July 30, 2021.

The Landlords did not have an outstanding Monetary Order against the Tenants at the end of the tenancy and the Tenants did not agree to the Landlords keeping the security or pet damage deposits.

The Condition Inspection Report (the "CIR") in evidence is accurate as to the move-in and move-out inspections. A copy of the CIR was provided to the Tenants in person at the time of signing at the move-in and move-out inspections.

The Landlords provided a written Statement of Account outlining the items claimed in detail. The Landlords also provided the following testimony.

#1 Screen repair \$340.00

The Landlords are seeking to keep \$340.00 due to pet damage caused to the patio screen. The Tenants' pet caused a large hole in the screen. The screen had to be replaced. The screen frame was not replaced and was re-used. The Tenants did not disagree with this claim on the CIR.

#2 Shower head and sink taps damage \$250.00

The Landlords are seeking \$250.00 for damage the Tenants caused to the shower head in the master ensuite bathroom which resulted in the shower head leaking. The Tenants installed a bidet in the bathroom without approval and this caused the sink taps to be very loose which required a special tool to fix.

#3 Clothing rod damage \$200.00

The Landlords are seeking \$200.00 for the removal of a clothing rod installed by the Tenants without approval. Two large holes in the walls had to be filled and painted after the rod was removed.

#4 Garage door opener \$129.50

The Landlords are seeking \$129.50 for a garage door opener that was not returned by the Tenants.

#5 Specialty light bulb \$50.00

The Landlords are seeking \$50.00 for having to replace a specialty light bulb in the master ensuite bathroom.

The Landlords confirmed they kept the above amounts from the security and pet damage deposits and returned \$620.50 of the security deposit and \$910.00 of the pet damage deposit to the Tenants.

Documentary Evidence

The Landlords submitted the following relevant documentary evidence:

- Photos
- The CIR
- Statement of Account
- Quotes
- Receipts

Analysis

Security and pet damage deposits

Pursuant to sections 24 and 36 of the *Act*, landlords and tenants can extinguish their rights in relation to security and pet damage deposits if they do not comply with the *Act* and *Residential Tenancy Regulation* (the “*Regulations*”). Further, section 38 of the *Act* sets out specific requirements for dealing with security and pet damage deposits at the end of a tenancy.

Based on the CIR, I find the Tenants participated in the move-in and move-out inspections and therefore did not extinguish their rights in relation to the security or pet damage deposits pursuant to sections 24 or 36 of the *Act*.

Based on the CIR and undisputed testimony of the Landlords, I find the Landlords complied with their obligations in relation to the move-in and move-out inspections and therefore did not extinguish their rights in relation to the security or pet damage deposits pursuant to sections 24 or 36 of the *Act*.

Based on the CIR and undisputed testimony of the Landlords, I find the tenancy ended August 31, 2021.

Based on the undisputed testimony of the Landlords, I find the Tenants provided their forwarding address to the Landlords July 30, 2021.

Pursuant to section 38(1) of the *Act*, the Landlords had 15 days from the later of the end of the tenancy or the date the Landlords received the Tenants' forwarding address in writing to repay the security and pet damage deposits or file a claim against them. Here, the Landlords had 15 days from August 31, 2021, to repay the security and pet damage deposits or file a claim against them. The Application was filed September 14, 2021, within time. I find the Landlords complied with section 38(1) of the *Act*.

Compensation

Section 7 of the *Act* states:

7 (1) If a...tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying...tenant must compensate the [landlord] for damage or loss that results.

(2) A landlord...who claims compensation for damage or loss that results from the [tenant's] non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Policy Guideline 16 deals with compensation for damage or loss and states in part the following:

It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

Section 37 of the *Act* states:

(2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and
- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

The meaning of “reasonable wear and tear” is set out in Policy Guideline 1 as follows:

Reasonable wear and tear refers to natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion. An arbitrator may determine whether or not repairs or maintenance are required due to reasonable wear and tear or due to deliberate damage or neglect by the tenant. An arbitrator may also determine whether or not the condition of premises meets reasonable health, cleanliness and sanitary standards, which are not necessarily the standards of the arbitrator, the landlord or the tenant.

Pursuant to rule 6.6 of the Rules, it is the Landlords as applicants who have the onus to prove the claim. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts occurred as claimed.

Based on the undisputed testimony of the Landlords and documentary evidence, I find the following.

The Tenants breached section 37 of the *Act* by leaving a large hole in the patio screen door, damaging the shower head and sink taps in the master ensuite bathroom,

installing a clothing rod without approval and leaving it at the end of the tenancy, failing to return a garage door opener at the end of the tenancy and failing to replace a specialty light bulb in the master ensuite bathroom.

The Landlords experienced loss due to the Tenants' breaches. The amount of loss is \$969.50. I find the amounts claimed reasonable and note that the Tenants did not appear at the hearing to dispute the amounts claimed.

Given the above, I find the Landlords are entitled to \$969.50.

Given the Landlords have been successful in the Application, I award them \$100.00 as reimbursement for the filing fee pursuant to section 72(1) of the *Act*.

Summary

In summary, the Landlords are entitled to the following:

Item	Description	Amount
1	Screen repair	\$340.00
2	Shower head and sink taps damage	\$250.00
3	Clothing rod damage	\$200.00
4	Garage door opener	\$129.50
5	Specialty light bulb	\$50.00
6	Filing fee	\$100.00
	TOTAL	\$1,069.50

The Landlords can keep the \$969.50 retained from the security and pet damage deposits pursuant to section 72(2) of the *Act*. The Landlords are issued a Monetary Order for the remaining \$100.00 pursuant to section 67 of the *Act*.

Conclusion

The Landlords are entitled to \$1,069.50. The Landlords can keep the \$969.50 retained from the security and pet damage deposits. The Landlords are issued a Monetary Order for the remaining \$100.00. This Order must be served on the Tenants and, if the Tenants do not comply with the Order, it may be filed in the Provincial Court (Small Claims) 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 *Act*.

Dated: May 04, 2022

Residential Tenancy Branch