



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDL-S, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for:

- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. Both parties were clearly informed of the RTB Rules of Procedure about behaviour including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11 which prohibits the recording of a dispute resolution hearing by the attending parties. Both parties confirmed that they understood.

The tenant confirmed receipt of the landlord's dispute resolution application ('Application'). In accordance with section 89 of the *Act*, I find that the tenant duly served with the Application. All parties confirmed receipt of each other's evidentiary materials and that they were ready to proceed.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order for damage to the unit, site, or property, money owed or compensation for loss under the *Act*, regulation or tenancy agreement?

Is the landlord entitled to recover the cost of the filing fee for this application?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This tenancy began as a fixed-term tenancy on March 1, 2019, with monthly rent originally set at \$1,400.00, payable on the first of the month. Both parties testified that the monthly rent was increased in accordance with the legislation during the tenancy. The landlord had collected a security deposit in the amount of \$725.83, which the landlord testified was returned to the tenant. The tenant testified that the landlord still holds the deposit. The tenancy ended on November 29, 2021 when the tenant moved out.

The landlord applied for reimbursement of the following items in their monetary claim:

Item	Amount
Faucet cover	\$50.00
Smoke detector	27.00
Four Lights	32.00
Blinds	350.00
Paint	150.00
Light in bathroom	8.00
Filing Fee	100.00
Total Monetary Order	\$717.00

The tenant does not dispute that they did not replace the burnt out bulbs. The tenant disputed the remaining claims.

The landlord is seeking reimbursement of the labour costs for reinstalling the faucet cover. The tenant testified that the part was not broke, but simply need to be paced back on. The tenant testified that they did not think the issue was a big deal, and did not have time during the move out to place the faucet cover back on. The landlord submitted a photo of the shower plate.

The landlord testified that the smoke detector was missing and needed to be replaced. The tenant testified that the smoke detector was out of battery, and kept beeping, so the tenant had taken the smoke detector and placed it in the drawer.

The landlord is seeking \$350.00 for repair of the damaged blinds. The landlord testified that they were unable to send photos on time for the hearing. The landlord submitted a repair invoice in the amount of \$350.00 in support of their claim. The tenant testified that the blinds were not broken, but was missing a piece at the bottom.

Lastly, the landlord is seeking reimbursement of the cost of painting. The landlord and the building manager testified that the standard practice was for the landlord to paint the rental unit before each tenancy. The landlord testified that the rental unit was last repainted in 2019. The landlord testified that the tenant had caused damage to the walls and paint by mounting a television on the wall. JV testified that during the move-out inspection the tenant had informed them that they would paint the damaged wall, but did not. The tenant disputes that the rental unit was last painted in 2019 as they had taken over the tenancy from a friend. The tenant testified that they had patched the holes, but did not paint as the landlord was going to paint anyway.

Analysis

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

Section 37(2)(a) of the *Act* stipulates that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

The tenant does not dispute that they did not change the light bulbs. Policy guideline #1 states that the tenant is responsible for replacing burnt out lightbulbs. Accordingly, I allow these portions of the landlord's claims.

In consideration of the landlord's claim for the faucet cover, I am not satisfied that this part was damaged by the tenant during this tenancy. I find that the cover was still there at the end of the tenancy, albeit not attached. Although I do not doubt that the cover had fallen off somehow, I am not satisfied that the landlord has met their burden of proof to demonstrate that this was due to the tenant's actions. Accordingly, I dismiss this portion of the landlord's claim without leave to reapply.

The tenant testified that they had removed the smoke detector, and placed it in a different area. The landlord testified that they could not locate the smoke detector, and to replace it. The responsibility falls on the tenant to replace the smoke detector or return the smoke detector to its original place. I find that the tenant failed to do so, and the landlord was unable to locate it. I am satisfied that the landlord had sufficiently supported this loss, and accordingly, I allow the landlord to recover the cost of replacing the removed smoke detector.

The landlord also made a monetary claim to repair the broken blinds. In consideration of the evidence and testimony before me, I note that although the landlord did not submit photos of the broken blinds, the condition inspection report does not make any note of any previous damage to the blinds. As the landlord submitted an invoice for the repairs, I find it clear that the blinds were damaged sometime during this tenancy. In consideration of the claim, however, I must still consider section 40 of the *Residential Tenancy Policy Guideline* which speaks to the useful life of an item. As per this policy, the useful life of interior blinds is 10 years. As noted above, the burden of proof is on the applicant to support their claim. In this case, I find that the landlord failed to provide sufficient evidence to support the age of the blinds, and whether the blinds were damaged due to the tenant's actions or wear and tear. In the absence of any photos, I am unable to determine the extent of the damage described. I find that the landlord has failed to meet the burden of proof to support that the blinds were damaged by the tenant rather than wear and tear. Accordingly, I dismiss this portion of the landlord's monetary claim without leave to reapply.

Lastly, the landlord is seeking reimbursement for painting due to the damage caused by the tenant's television mount. Policy guideline #1 states the following about painting:

The landlord is responsible for painting the interior of the rental unit at reasonable intervals. The tenant cannot be required as a condition of tenancy to paint the premises. The tenant may only be required to paint or repair where the work is necessary because of damages for which the tenant is responsible.

In this case, I am satisfied that the tenant did cause damage to the walls by mounting their television, and although the tenant did patch some of the holes, did not repaint the wall after doing so. I find the painting was necessary due to the patching of the walls. Accordingly, I allow this portion of the landlord's claim.

As the landlord's application had merit, I allow the landlord to recover the filing fee for this application.

Conclusion

I issue a Monetary Order in the amount of \$317.00 in the landlord's favour under the following terms:

Item	Amount
Smoke detector	27.00
Four Lights	32.00
Paint	150.00
Light in bathroom	8.00
Filing Fee	100.00
Total Monetary Order	\$317.00

The landlord is provided with this Order in the above terms and the tenant must be served with a copy of this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The remainder of the landlord's application is dismissed without leave to reapply.

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: May 04, 2022

Residential Tenancy Branch