



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BAYSIDE PROPERTY SERVICES LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND-S, FF

Introduction

This hearing convened to deal with the landlord's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The landlord applied on October 8, 2021, for compensation for alleged damage to the rental unit by the tenant, authority to keep the tenant's security deposit to use against a monetary award, and recovery of the cost of the filing fee.

The parties listed on the style of cause page of this Decision attended, the hearing process was explained to the parties, and they were given an opportunity to ask questions about the hearing process. All parties were affirmed.

The parties were informed at the start of the hearing that recording of the dispute resolution hearing is prohibited.

The tenant confirmed receiving the landlord's evidence and the tenant also confirmed not providing documentary evidence.

Thereafter the parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Following is a summary of those submissions and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation from the tenant, to keep the tenant's security deposit to partially offset a monetary award, and recovery of the filing fee?

Background and Evidence

This tenancy began on March 15, 2018 and ended on May 31, 2021. The tenant paid a security deposit of \$747.50 at the beginning of the tenancy, which the landlord has retained, having filed this claim against it.

The landlord's original monetary claim was \$1,807.40, as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Suite cleaning (<i>tenant agreed</i>)	\$200.00
2. Suite painting (<i>tenant agreed</i>)	\$400.00
3. Paint supplies (<i>landlord abandoned</i>)	\$185.95
4. Carpet replacement (50% of \$1,842.90 for depreciation)	\$921.45
5. Filing fee	\$100.00
TOTAL	\$1,807.40

The landlord at the beginning of the hearing abandoned their claim of \$185.95 for paint supplies. The tenant said that her only dispute to the landlord's monetary claim is their request for carpet replacement.

The landlord's agent, KO, (agent) testified that the carpet at the end of the tenancy was in poor condition. There was a large hole and the carpet could not be repaired. The agent said the carpet was stained and could not be cleaned and the hole could not be patched.

The landlord submitted that at *“the time of the move-out inspection, numerous stains and a large hole in the carpet were noted. It was thought that a carpet patch and partial carpet replacements could have fixed the issue, but (*carpet company*) advised the carpet model was no longer commercially available, and a carpet patch would be an unsightly and more expensive solution. The existing carpet was replaced, but was only 5 years old at the time of move out therefore, the tenant was charged 50% of the cost of replacing the carpet”*.

The landlord submitted the carpet replacement invoice, photographs of the rental unit at the end of the tenancy, and move-in and move-out condition inspection report (Report).

Tenant's response –

The tenant testified that she does not agree to paying for the entire carpet replacement, as not all the carpet was damaged. The tenant submitted that any stain in the bedroom could be removed.

The tenant's emotional support advocate, TR, testified that it was not proven that the entire carpet had to be replaced. TR said that the square footage of the carpet replacement does not match the square footage of the rental unit. TR said the entire building had old carpets.

TR said there is no reason the hole in the carpet could not be patched, that there was no proof of the age of the carpet. TR testified that the blue stain in the bedroom was wax, which could be easily removed, and the landlord did not do their due diligence in removing the wax. TR said they are not willing to rely on the statements of a carpet professional.

Landlord's rebuttal –

The landlord's agent said it was not apparent the blue stain was wax, but that there were 4 large stains and a hole in the living room carpet. The agent submitted that the most cost effective way to deal with the carpet was a complete replacement rather than a patchwork approach.

Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results.

Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party.

Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss.

Section 37 (2) of the Act states 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.

In this case, the landlord claims for half of the replacement costs of the carpet.

Residential Tenancy Branch (RTB) Policy Guideline 16 states that in a claim for damage, the purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred.

In this case, the tenant asserted that the carpet hole could be patched and the stains removed. Having reviewed the landlord's evidence, and in consideration of the tenant's failure to provide documentary or photographic evidence, I find the landlord's evidence shows that the tenant's negligence caused damage to the carpet and that due to the said negligence, the carpet had to be replaced. The carpet damage was well-noted on the move-out Report and I find the landlord's claim to be reasonable when considering their documentary and photographic evidence.

During the hearing, I find the landlord's agent, KO, provided clear and consistent evidence and I find her testimony was supported by their thorough and well-organized documentary and photographic evidence. In contrast, I find the statements of the tenant and the tenant's emotional support advocate to be unsupported by evidence as to their

claim. For instance, there was insufficient evidence that the blue stain in the bedroom was wax.

As I have found the landlord to have provided clear and consistent evidence, I accept that the carpet was five years old at the end of the tenancy.

Under the Residential Tenancy Policy Guideline 40, the useful life span of carpet is 10 years. In this case, as I have accepted that the carpet was 5 years old, I find the carpet had a depreciated value of 50%.

For this reason, I accept the landlord's monetary claim of one-half of their carpet invoice of \$1,842.90, or \$921.45. I find the landlord has established a monetary claim of \$921.45.

I also find the landlord has established a monetary claim of \$200 for cleaning and \$400 for painting, as the tenant agreed to these amounts.

Due to their successful application, I grant the landlord recovery of their filing fee of \$100.

I find that the landlord has established a total monetary claim of **\$1,621.45** comprised of the 50% of the carpet replacement of \$921.45, cleaning of \$200, painting of \$400, and the \$100 fee paid for this application.

I order that the landlord retain the security deposit of **\$747.50** in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 of the Act for the balance due of **\$873.95**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: June 11, 2022