



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNDCL, MNDL

Introduction

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

- a Monetary Order for damage or compensation, pursuant to section 67;
- a Monetary Order for damage, pursuant to section 67; and
- authorization to recover the filing fee from the tenant, pursuant to section 72.

Landlord L.C. and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they are not recording this dispute resolution hearing.

Per section 95(3) of the Act, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5 000."

Both parties confirmed their email addresses for service of this decision and order.

Landlord L.C. testified that the tenant was served with this application for dispute resolution via registered mail on October 20, 2021. A Canada Post registered mail receipt for same was entered into evidence. The tenant testified that she received the landlord's application for dispute resolution within a couple days of the date it was sent.

I find that the tenant was served with the landlord's application for dispute resolution in accordance with section 89 of the *Act*.

Landlord L.C. testified that the tenant was served with the landlords' evidence via registered mail on February 4, 2022. The tenant testified that she received the landlords' evidence within one to two weeks of that date. I find that the tenant was served with the landlords' evidence in accordance with section 88 of the *Act*.

The tenant testified that she served the landlord with her evidence two weeks before this hearing, via registered mail. Landlord L.C. testified that her son received the tenant's evidence around one week ago, but she has not seen it because she has been out of the country. Landlord L.C. testified that she did not object to the tenant's evidence being considered in this matter. Pursuant to the landlord's acceptance of the tenant's evidence for consideration, I admit the tenant's evidence for consideration, even though it was received by the landlord's son less than 14 clear days before this hearing. I find that the tenant's evidence was served in accordance with section 88 of the *Act*.

Issues to be Decided

1. Are the landlords entitled to a Monetary Order for damage or compensation, pursuant to section 67 of the *Act*?
2. Are the landlords entitled to a Monetary Order for damage, pursuant to section 67 of the *Act*?
3. Are the landlords entitled to recover the filing fee from the tenant, pursuant to section 72 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the tenant's and landlord's claims and my findings are set out below.

Pursuant to Rule 7.4 of the Residential Tenancy Branch Rules of Procedure, evidence must be presented by the party who submitted it. I will only refer to evidence presented in the hearing.

Both parties agreed to the following facts. This tenancy began on May 15, 2016 and ended on September 30, 2021. Monthly rent in the amount of \$1,705.00 was payable on the first day of each month. A security deposit of \$800.00 and a pet damage deposit of \$800.00 were paid by the tenant to the landlord. A written tenancy agreement was signed by both parties and a copy was submitted for this application. The tenancy agreement states that the tenancy is for a fixed term ending on May 31, 2017 and that at the end of the fixed term the tenancy will continue on a month to month basis.

Both parties agree that a move in condition inspection report was completed by both parties at the start of the tenancy. The move in condition inspection report was entered into evidence and is signed by both parties. Both parties agree that a joint move out condition inspection was completed by landlord L.C.'s son/agent and the tenant on September 30, 2021.

Landlord L.C. testified that the tenant refused to sign the move out condition inspection report. The tenant testified that she did not have her glasses with her on September 20, 2021 so she did not sign it because she wanted to read it. The tenant testified that a few days later she added her comments to the move out condition inspection report and sent it to the landlord. The original move out condition inspection report and the move out condition inspection report with the tenant's additions, were both entered into evidence.

Both parties agree that on August 19, 2021 the tenant sent landlord L.C. an email which states:

I am starting to search for a new home. Hoping for either October 1, 2021..or November 1, 2021. Depends on what is out there and how lucky I am.

I will inform you with an exact Date.. when I have secured a new home....

The above email was entered into evidence.

Both parties agree that on September 2, 2021 the tenant emailed the landlords:

I have put a down payment for a new home and will be vacating [the subject rental property] for October 1st.

The above email was entered into evidence.

Both parties agree that the landlord responded to the above email by requesting the tenant's notice be in writing. The September 2, 2021 email to the tenant was entered into evidence and states:

E-mail notices are not accepted. Please send me your written Notice to Vacate with the following information:

Your name

Address

Date

Forwarding address

Date of vacating

Your signature

You can take a picture of your written notice and send it to me.

The tenant testified that she provided the landlord with a photograph of a handwritten letter to end her tenancy with the above information included on September 3rd or 4th and that the landlord responded via email that the hand written notice was not dated. The tenant testified that on September 9, 2021 she sent the landlord the written notice to vacate a second time and dated it September 9, 2021. The landlord agreed with the above but did not recall the dates.

The tenant entered into evidence emails which show that the written notice to vacate was first sent to the landlord on September 8, 2021 and that the landlord requested the date be added in a September 8, 2021 email.

The written notice to vacate was entered into evidence and states the tenant's name, address, date, forwarding address and date of vacation. The written notice states that the vacate date is October 1, 2021.

Landlord L.C. testified that the tenant gave less than one month's notice and is required to pay October 2021's rent. Landlord L.C. testified that she is seeking \$1,705.00 for late notice. Landlord L.C. testified that new tenants were found for November 1, 2021.

Landlord L.C. testified that the blinds were in good condition and were clean at the start of the tenancy and that they were very dirty at the end of the tenancy. Landlord L.C. testified that the tenant did not clean the blinds at all during the tenancy and damaged some of the vertical veins which required replacement veins to be installed. Landlord

L.C. testified that it cost \$766.69 to clean and repair the blinds. A receipt for same was entered into evidence.

The receipt for \$766.69 states:

Description	Qty	Rate	Amount
Cleaning of vertical vanes (no clips & chains)	193	\$3.25	\$627.25
Cleaning of vertical valance	4	\$6.00	\$24.00
Supply & installation of small parts - vertical vane inserts	37	\$2.00	\$74.00
GST On Sales		5.00%	\$36.26
PST On Sales		7.00%	\$5.18
Total			\$766.69

Landlord L.C. entered into evidence an email from the blind cleaning company which states:

....The fabric verticals that we removed from the home are in very poor condition and we have serious reservations about how successful we can be in cleaning them. The fabric is grey with build up dirt and there is significant staining from mildew and other materials....

The move in condition inspection report states that all blinds, curtains, and drapes are in satisfactory condition, except that four panels are missing in the second bedroom.

The original move out condition inspection report states that blinds are missing and that a quote will be required. The tenant's copy of the move out condition inspection report, with additions made after the inspection, states:

"reasonable wear and tear on blinds- were washed and vacuumed mold hard to remove"

The tenant testified that the blinds were lovely and striking when she moved in. The tenant testified that the windows in the subject rental property were single paned. The tenant testified that mold grew in the windows during the tenancy and that she could not keep up with the window cleaning during the tenancy.

The tenant testified that she washed and vacuumed the blinds at the end of the tenancy as did her cleaning lady. The tenant testified that she did not have a receipt from the

cleaning lady in her evidence package. No documentary evidence regarding the cleaning lady was presented during the hearing.

The tenant testified that when she moved out she found detached vertical blinds “everywhere, in every nook and cranny” of the subject rental property.

Landlord L.C. testified that the windows in the subject rental property are double paned and do not have a mold problem. Landlord L.C. testified that the problem is that the tenant did not clean the windows and the blinds for the duration of the tenancy. Landlord L.C. testified that the tenant did not keep the subject rental property reasonably clean.

Landlord L.C. testified that the cleanliness of the subject rental property made re-renting the subject rental property very difficult. Landlord L.C. entered into evidence photographs of the subject rental property she testified were taken on September 19, 2021, during a showing of the subject rental property for rent. The photographs show that the subject rental property has clutter and personal possessions all over the floors, counters, beds and other surfaces. The photographs show garbage piled up outside.

Landlord L.C. entered into evidence emails between landlord L.C. and the tenant between September 19, 2021 and September 22, 2021 in which the landlord informs the tenant about the difficulty showing the unit due to the mess and garbage. The tenant responds that due to her physical limitations/disability and limited finances, she is not able have everything cleaned up immediately. The tenant states:

I need to make you aware that I will clean to the best of my ability..but given I have a disability getting up on ladders is not safe. Hight ceilings will be impossible. After 5 ½ years there is a reasonable about of wear and tear on a premise

The tenant testified that she is disabled and so is not able to clean as often as she would like. The tenant testified that a few months before the end of the tenancy she fell on the property and her ability to clean went down. The tenant testified that the photographs entered into evidence do not reflect the level of cleanliness of the subject rental property for the duration of the tenancy, just since she fell.

Landlord L.C. testified that the cleanliness seen in the photographs is representative of the cleanliness of the subject rental property during the tenancy.

Landlord L.C. entered into evidence a photograph she testified was taken on September 30, 2021 showing a pile of vertical blind inserts in a heap on the floor. Landlord L.C. testified that the tenant left the pile of blinds on the floor when she moved out. The tenant testified that she did not leave a pile of blinds on the floor and testified that the landlord has not proved when the photograph was taken as it is not dated.

Analysis

October 2021's rent

Based on the tenancy agreement entered into evidence, I find that the tenancy was a periodic tenancy (also known as a month-to-month tenancy).

Section 45(1) of the *Act* states that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that:

- (a) is not earlier than one month after the date the landlord receives the notice, and
- (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Section 45(4) of the *Act* states that a notice to end a tenancy given under this section must comply with section 52 [*form and content of notice to end tenancy*].

Section 52 of the *Act* states that in order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy,
 - (d.1) for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and
- (e) when given by a landlord, be in the approved form.

I find that the August 19, 2021 email sent by the tenant was not a valid notice to end tenancy because the notice was not signed and dated, did not give the address of the rental unit, and did not state the effective date of the notice. A valid notice to end tenancy cannot provide two different “hopeful” move out dates.

Based on the emails entered into evidence, I find that the tenant first notified the landlord of a concrete end of tenancy date on September 2, 2021 via email. I find that on September 2, 2021 Landlord L.C. informed the tenant that the notice to end tenancy was missing key information as required under section 52 of the *Act*. I find that the September 2, 2021 email did not meet the form and content requirements of section 52 of the *Act* and was therefore not valid, and that landlord L.C. was correct in requesting additional information.

Based on the emails entered into evidence, I find that the tenant provided written notice to end the tenancy that met all of the section 52 content requirements in accordance with section 52 of the *Act*, on September 9, 2022.

Section 45 of the *Act* states that a tenant may end a periodic tenancy by giving the 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 and is the date before the day in the month that rent is payable under the tenancy agreement.

Residential Tenancy Policy Guideline #5 explains that, where the tenant gives written notice that complies with the Legislation but specifies a time that is earlier than that permitted by the *Act*, the landlord is not required to rent the rental unit or site for the earlier date. The landlord must make reasonable efforts to find a new tenant to move in on the date following the date that the notice takes legal effect.

Residential Tenancy Policy Guideline # 3 states:

The damages awarded are an amount sufficient to put the landlord in the same position as if the tenant had not breached the agreement. As a general rule this includes compensating the landlord for any loss of rent up to the earliest time that the tenant could legally have ended the tenancy.

In this case, contrary to section 45 of the *Act*, less than one month’s written notice was provided to the landlord to end the tenancy. The earliest date the tenant was permitted

to end the tenancy was October 31, 2021. I therefore find that the tenant owes the landlord \$1,705.00 for October 2021's rent.

Blind Cleaning/ Repair

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

Residential Tenancy Branch Policy Guideline #1 states:

INTERNAL WINDOW COVERINGS

1. If window coverings are provided at the beginning of the tenancy they must be clean and in a reasonable state of repair.
2. The landlord is not expected to clean the internal window coverings during the tenancy unless something unusual happens, like a water leak, which is not caused by the tenant.
3. The tenant is expected to leave the internal window coverings clean when he or she vacates. The tenant should check with the landlord before cleaning in case there are any special cleaning instructions. The tenant is not responsible for water stains due to inadequate windows.
4. The tenant may be liable for replacing internal window coverings, or paying for their depreciated value, when he or she has damaged the internal window coverings deliberately, or has misused them e.g. cigarette burns, not using the "pulls", claw marks, etc.
5. The tenant is expected to clean the internal window coverings at the end of the tenancy regardless of the length of the tenancy where he or she, or another occupant smoked in the premises.

WINDOWS

1. At the beginning of the tenancy the landlord is expected to provide the tenant with clean windows, in a reasonable state of repair.
2. The tenant is responsible for cleaning the inside windows and tracks during, and at the end of the tenancy, including removing mould. The tenant is responsible for cleaning the inside and outside of the balcony doors, windows and tracks during, and at the end of the tenancy. The landlord is responsible for cleaning the outside of the windows, at reasonable intervals.

Based on the testimony of both parties and the move in and out condition inspection reports, I find that the blinds were in a good and clean condition at the start of this tenancy, with the exception of four missing vertical blinds in a bedroom. Based on the email from the blind cleaning company and landlord L.C.'s testimony, I find that the tenant left the internal window coverings dirty with 37 missing or damaged vertical slats (four of which were missing at the start of the tenancy). I accept the tenant's testimony that she attempted to clean the blinds, but, based on the email from the blind cleaning company, I find that she was not successful.

Pursuant to Residential Tenancy Policy Guideline #1, the tenant was required to leave the internal window coverings clean when the tenant vacated the subject rental property. I note that the cleaning of the windows and window tracks of mold and mildew during the tenancy is the responsibility of the tenant. Based on the tenant's testimony that she found it difficult to keep up with the window cleaning, I find, on a balance of probabilities, that the tenant failed to adequately clean the windows and window tracks of mold and mildew which then contaminated the vertical blinds. I find that failing to clean the windows and blinds during the tenancy is not reasonable wear and tear.

I find that there is no evidence to suggest that the windows were leaking and contributed to the dirty condition of the blinds. I found the landlord's testimony to be straightforward and credible. I accept the landlord's testimony that the windows were double paned and in good working order.

I find that the tenant is responsible for the cost of cleaning and repairing the blinds that she left dirty and damaged/missing. I award the landlord the cost of cleaning and repairs, less the cost of the four slats that were missing at the start of the tenancy. As stated in the receipt for cleaning and repair entered into evidence, each vertical vane insert cost \$2.00 plus tax. From the total of the bill, I deduct the cost of 4 vertical vane insets as follows:

$\$8.00 \text{ (cost of 4 blind slats)} + 12\% \text{ tax} = \8.96

$\$766.69 \text{ (cost of cleaning and repair)} - \$8.96 \text{ (cost of 4 vanes)} = \mathbf{\$757.73}$

I note that because the blinds were cleaned and repaired and not replaced, a depreciation calculation is not necessary as the repair will not likely prolong the useful life of the blinds as a whole, beyond their original useful life.

As the landlord was successful in this application for dispute resolution, I find that the landlord is entitled to recover the \$100.00 filing fee from the tenant, pursuant to section 72 of the *Act*.

Section 72(2) of the *Act* states that if the director orders a tenant to make a payment to the landlord, the amount may be deducted from any security deposit or pet damage deposit due to the tenant. I find that the landlord is entitled to retain the tenant's security and pet damage deposits totalling \$1,600.00.

Conclusion

I issue a Monetary Order to the landlord under the following terms:

Item	Amount
October 2021 rent	\$1,705.00
Cleaning and repair of blinds	\$757.73
Filing Fee	\$100.00
Less security deposit	-\$800.00
Less pet damage deposit	-\$800.00
TOTAL	\$962.73

The landlord is provided with this Order in the above terms and the tenant must be served with 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.

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: June 1, 2022

Residential Tenancy Branch