



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PROMPTON REAL ESTATE
SERVICES and [tenant name suppressed to protect privacy]

DECISION

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

Introduction

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

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- an order authorizing the landlord the recovery of the filing fee for this application from the tenant pursuant to section 72.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited, and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me;

however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Is the landlord entitled to a monetary award for damage or loss arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to the recovery of the filing fee?

Background, Evidence

The landlord's testimony is as follows. The tenancy began on February 1, 2019 and ended on August 11, 2021. The tenants were obligated to pay \$1333.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$650.00 security deposit which the landlord still holds. The landlord testified that the tenant left the unit dirty and damaged at move out. The landlord testified that the tenants didn't clean the suite or balcony sufficiently. The landlord testified that the tenants left large holes in the drywall that required them to be repaired. The landlord testified that the tenants didn't return one of the access fobs. The landlord testified that the tenants had six strata bylaw violation fines that were left unpaid. The landlord testified that the tenants did not pay for the month of August 2021 and did not provide proper notice that they would be vacating.

The landlord is applying for the following:

1.	Suite and Balcony Cleaning	\$257.25
2.	Drywall Repair	126.00
3.	August 2021 Rent	1333.00
4.	Strata By Law Fines	1200.00
5.	Fob	100.00
6.	Filing Fee	100.00
7.		
8.		
9.		
10.		
	Total	\$3116.25

The tenant gave the following testimony. The tenant testified that he tried his best to clean the suite before moving out. The tenant testified that since the landlord issued a One Month Notice to End Tenancy for Cause on July 9, 2021 with an effective date of August 31, 2021, he could give ten days notice to move out without any financial consequences. The tenant testified that he thought there were just pinholes in the wall, and the holes for the television. The tenant testified that he accepts responsibility for the lost access fob and fines.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. **In order to claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof.** The claimant must provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I address the landlords claim and my findings as follows.

Strata Bylaw Fines and Fob

The tenant accepted responsibility for the lost fob and the strata bylaw fines, accordingly; the landlord is entitled to \$1300.00.

Suite and Balcony Cleaning

The landlord provided photos and paid invoices to support this claim, accordingly; I find that the landlord is entitled to \$257.25.

Drywall Repair

The landlord provided photos and paid invoices to support this claim, accordingly; I find that the landlord is entitled to \$126.00.

August Rent

The tenant confirmed that he did not give one full and appropriate months' notice to end the tenancy. The tenant testified that he gave the landlord 10 days' notice to move out. Based on the tenant's own testimony, I find that the landlord is entitled to \$1333.00.

As the landlord has been successful in their application, they are entitled to the recovery of the \$100.00 filing fee.

Conclusion

The landlord has established a claim for \$3116.25. I order that the landlord retain the \$650.00 security deposit in partial satisfaction of the claim, and I grant the landlord an order under section 67 for the balance due of \$2466.25. This order may be filed in the Small Claims 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: September 20, 2022

Residential Tenancy Branch