



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KASLO INVESTMENT LP C/O WARRINGTON
PCI and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **MNDL-S, FFL**

Introduction

This hearing dealt with an application filed by the landlord pursuant the *Residential Tenancy Act* (the “Act”) for:

- A monetary order for damages caused by the tenant, their guests to the unit, site or property and authorization to withhold a security deposit pursuant to sections 67 and 38; and
- Authorization to recover the filing fee from the other party pursuant to section 72.

The tenant did not attend the hearing although the teleconference connection was left open throughout. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord was represented at the hearing by property manager, EJ (the “landlord”). The landlord testified that he served the Notice of Dispute Resolution Hearing package to the tenant at the forwarding address provided on the move-out condition inspection report on March 23, 2022. The landlord testified that he looked up the tracking number (reprinted on the cover page of this decision) and determined that the package was signed for by the tenant on March 30, 2022. Based on the landlord’s undisputed testimony and the proof of service documents filed, I deem the tenant effectively served with the Notice of Dispute Resolution Hearing package on March 28, 2022, five days after it was sent via registered mail in accordance with sections 89 and 90 of the Act.

Preliminary Issue

The landlord’s application for dispute resolution seeks compensation from a person who was added to the tenancy agreement as an occupant effective October 1, 2021. This person was not added to the tenancy agreement as an additional tenant. Section 45.1 defines an occupant as an individual, other than a tenant, who occupies a rental unit.

Residential Tenancy Branch Policy Guideline PG-13 [Rights and Responsibilities of Co-tenants] describes occupants as follows:

If a tenant allows a person to move into the rental unit, the new person is an occupant who has no rights or obligations under the tenancy agreement, unless the landlord and the existing tenant agree to amend the tenancy agreement to include the new person as a tenant.

I find that the second person named on the landlord's application for dispute resolution is not a tenant and consequently does not have the same rights or obligations as the original tenant who signed the tenancy agreement. The application against the second named tenant is therefore dismissed without leave to reapply. The cover page of this decision has been amended to remove the occupant's name as a party to this action.

Issue(s) to be Decided

Is the landlord entitled to a monetary order against the tenant?

Can the landlord retain the tenant's security deposit?

Can the landlord recover the filing fee?

Background and Evidence

The landlord gave the following undisputed testimony. The fixed one-year tenancy began on August 1, 2020 with rent set at \$1,200.00 per month payable on the first day of each month. At the commencement of the tenancy, the parties conducted a condition inspection report and a security deposit of \$1,050.00 was collected by the landlord which he continues to hold.

The tenant ended the tenancy by serving a 1 Month Notice to End Tenancy, effective February 28, 2022. A condition inspection report was done on the last day of the tenancy and a copy was provided as evidence. The tenant's forwarding address is listed on the condition inspection report.

The landlord testified that the rental unit is a 2-bedroom apartment and both bedrooms are carpeted. The tenant did not clean or shampoo the carpets at the end of the tenancy. The landlord hired a professional to clean the carpets and the cleaner's invoice was provided as evidence.

The tenant hung pictures and a tv bracket on the walls, causing damage to them. Also, there were scuffs and scratches to the walls beyond reasonable wear and tear. The landlord provided an invoice from the repair company they hired to patch the holes, dents and scratches in the wall, prime them and paint them. The landlord testified that it took 2 people to do the repairs. Noted on the invoice is the remark from the painter that

it took longer than usual due to the bad conditions of the walls and that it was painted after hours due to a tenant moving in the next day. The landlord seeks to recover one half the repair invoice charged by the company, noting that some damage may be attributed to reasonable wear and tear.

Analysis

When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear pursuant to section 37(2)(a) of the Act. This is elaborated on in Residential Tenancy Branch Policy Guideline PG-1 [Landlord and Tenant Responsibility for Residential Premises] which states:

The tenant is generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard. The tenant is also generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest. The tenant is not responsible for reasonable wear and tear to the rental unit or site (the premises), or for cleaning to bring the premises to a higher standard than that set out in the *Residential Tenancy Act*

On the topic of carpets, the guideline states:

The tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. Where the tenant has deliberately or carelessly stained the carpet he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of tenancy.

This tenancy lasted approximately a year and a half. I am satisfied, based on the undisputed testimony of the landlord that the tenants did not clean the carpets as would be required pursuant to the policy guideline. Consequently, I grant the landlord the cost of the carpet cleaning, in the amount of **\$131.25** including GST.

On the topic of the walls, the guideline states:

Nail Holes:

1. Most tenants will put up pictures in their unit. The landlord may set rules as to how this can be done e.g. no adhesive hangers or only picture hook nails may be used. If the tenant follows the landlord's reasonable instructions for hanging and removing pictures/mirrors/wall hangings/ceiling hooks, it is not considered damage and he or she is not responsible for filling the holes or the cost of filling the holes.
2. The tenant must pay for repairing walls where there are an excessive number of nail holes, or large nails, or screws or tape have been used and left wall damage.

3. The tenant is responsible for all deliberate or negligent damage to the walls.

PAINTING

1. 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.

The tenant did not attend the hearing to dispute the landlord's testimony or refute any of the evidence presented by the landlord. I have viewed the photos of the walls provided by the landlord and I find the tenant put up an excessive number of holes and patched the holes in such a way that it would require additional work to prep the walls, sand them and make them suitable for priming and painting. I find the landlord to be reasonable in absorbing half the cost of repairing and painting the walls and I award the landlord half the cost to do the work, a sum of **\$1,155.00**.

The landlord was successful in his application and the filing fee of **\$100.00** will be recovered. The landlord continues to hold the tenant's security deposit of **(\$1,050.00)**. In accordance with the offsetting provisions of section 72, the landlord may retain the tenant's full security deposit in partial satisfaction of the monetary order.

| Item | Amount |
|------------------------------|-----------------|
| Carpet cleaning | \$131.25 |
| Repairing and painting walls | \$1,155.00 |
| Filing fee | \$100.00 |
| Less security deposit | (\$1,050.00) |
| TOTAL | \$336.25 |

Conclusion

I award the landlord a monetary order in the amount of \$336.25.

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: November 14, 2022

Residential Tenancy Branch