



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

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A matter regarding CAPITAL REGION HOUSING
CORPORATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S FFL

Introduction

The landlord seeks compensation pursuant to section 67 of the *Residential Tenancy Act* (the "Act"). The landlord also seeks to recover the cost of the filing fee under section 72.

Issue

Is the landlord entitled to compensation?

Background and Evidence

In reaching this decision, I have considered all relevant evidence that complied with the *Rules of Procedure*. However, only the evidence necessary to determine the issue(s) of this dispute is reproduced below.

The tenancy began on January 1, 2021 and ended on December 5, 2022. Monthly rent was \$375.00. The security deposit was \$450.00, and the pet damage deposit was \$450.00. Both deposits are confirmed by the landlord to be held in trust pending the outcome of this application. There is a written tenancy agreement in evidence. (It should be noted that the name of the landlord has been corrected in the application and appears as the Capital Regional Housing Corporation on the style of cause.)

The landlord seeks compensation in the amount of \$205.15 for costs related to a key replacement and callout, \$7,574.28 for expenses and costs related to a flood that occurred in May 2022, \$3,441.56 for expenses and costs related to a flood that occurred in November 2022, \$9,440.76 for restoration costs, and \$100.00 for the cost of the application filing fee. The landlord's representative (P.B.) testified under oath about the floods and the subsequent costs related to dealing with them and with restoring the rental unit. Copies of various invoices and photographs of the rental unit were in evidence.

The tenant did not dispute that they caused the floods are the damages which resulted. Nor did the tenant dispute the amounts claimed. The tenant testified under oath that she has initiated a claim with her insurance company. It is expected that any monetary order or award granted to the landlord will be forwarded to the tenant's insurance company.

However, the tenant disputed the key replacement cost and callout. Her contention is that she is being double-charged, and that she only owes the landlord \$75.00. The tenant also disputes the included \$500.00 claim related to cleaning walks purportedly damaged by tobacco or cigarette smoke. The tenant testified that she never smoked in the rental unit and that the landlord has no proof that she ever did so.

Analysis

Section 7 of the Act states that if a party does not comply with the Act the non-complying party must compensate the other for damage or loss that results. And section 67 of the Act permits an arbitrator to determine the amount of, and order a party to pay, compensation to another party if damage or loss results from a party not complying with the Act, the regulations, or a tenancy agreement.

Section 37(2)(a) of the Act requires that a tenant "leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear" when they vacate.

It is the landlord's undisputed evidence that the tenant, likely through negligence, caused two floods in the rental unit which damaged the rental unit far beyond what might be considered reasonable wear and tear. The costs to repair and restore the rental unit are significant but have been proven in this application.

Regarding the claim for the key replacement and call out, there are two invoices. One is in the amount of \$75.00 for a "Single Maint C/B Replace Key & Fob" for a maintenance chargeback on June 1, 2022. The second is for a "C/B Keys & Fob" chargeback of \$125.00 on February 11, 2022. In total, the amount claimed is \$200.00. There is no evidence provided by the tenant to counter this claim, or any evidence to prove that she was double charged. In summary, then, the landlord is awarded \$200.00 for this claim.

Last, regarding the \$500.00 relating to "tobacco related" damages, the landlord's evidence does not support the claim that the tenant caused any such damage. The condition inspection report is devoid of any reference to the walls being damaged by tobacco or cigarette smoke.

After carefully considering all of the oral and documentary evidence before me, I find that the landlord has not proven this specific claim (which is embedded within the larger claim for repairs) on a balance of probabilities. This amount is therefore dismissed.

Having found that the landlord is predominately successful in its application the landlord is entitled to recover the cost of the \$100.00 filing fee.

In total the landlord is awarded \$20,256.60.

Under section 38(4)(b) of the Act, I am authorized to allow the landlord to retain the tenant's security and pet damage deposit after the end of the tenancy. Therefore, the landlord is ordered to retain the security and pet damage deposits of \$900.00 to partially satisfy the amount awarded. The remaining balance of the award (\$19,356.60) is granted by way of a monetary order, a copy of which will be issued to the landlord along with this decision.

Conclusion

The application is granted. The landlord is authorized to retain the tenant's deposits. A monetary order for \$19,356.60 is issued to the landlord.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: January 25, 2023

Residential Tenancy Branch