



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Devonshire Properties Inc and
[tenant name suppressed to protect privacy]

DECISION

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damages to the unit - Section 67;
2. An Order to retain the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Preliminary Matter

The Tenant confirms receipt of the Landlord’s evidence. The Landlord states that they did not receive the Tenant’s evidence consisting of a one page statement. The Tenant states that the Landlord had this earlier.

Rule 3.14 of the Rules of Procedure provides that any documentary evidence that a respondent intends to rely on at the hearing must be provided to the Landlord. Given the Tenant’s response I find on a balance of probabilities that their evidence was not provided to the Landlord after receipt of the Landlord’s application. I therefore decline to consider the written statement however the Tenant may provide this statement as testimony.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to retention of the security deposit?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The following are agreed facts: the tenancy under written agreement started on August 1, 2020 and ended April 30, 2022. At the outset of the tenancy the Landlord collected \$900.00 as a security deposit. Rent of \$1,827.00 was payable on the first day of each month. The Tenant provided their forwarding address with their notice to end tenancy dated March 31, 2022. The Parties mutually conducted a move-in and move-out condition inspection with a copy of the completed reports provided to the Tenant.

The Landlord states that the Tenant did not agree with the move-out report and although the Tenant was offered the report for signature the Tenant did not agree to sign the report. The Tenant agrees that they did not agree with the move-out report however the Tenant states that the report was not offered to them for signature until it was sent a couple of days later. The Landlord confirms that the person who attended the move-out inspection is not at the hearing and no statement of the move-out was provided by this person.

The Tenant does not dispute the claims of \$125.00 for carpet cleaning, \$75.00 for the cost of window covering cleaning, \$90.00 for suite cleaning, and \$100.00 for the fob.

The Landlord states that the Tenant left a window in the bedroom broken and believes that the window was broken from the Tenant's use of a barbeque and propane tank on the area by the window. The Landlord claims \$674.00 as the costs to replace the window. The Landlord provides only an estimate for the costs. The Landlord confirms that they did not provide their invoice for this cost. The Tenant states that the barbeque and propane tank was part of the Tenant's camping supplies and were only on the area

for storage. The Tenant denies causing the window to crack and believes it happened during a high heat weather period.

The Landlord withdraws the claim for wall damage.

Analysis

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that costs for the damage or loss have been incurred or established. As the Landlord did not provide evidence of the cost paid to replace the window I find that the Landlord has not substantiated the costs claimed. As the Tenant has disputed having damaged the window I cannot find that the Landlord has substantiated a nominal amount for the damage. For these reasons I dismiss the claim for \$674.00.

As the Tenant has not disputed the total amount of **\$390.00** for the cleaning of the carpet, window coverings, and suite and the return of the fob, I find that the Landlord has substantiated an entitlement to this sum. As the Landlord's claims have met with some success I find that the Landlord is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$490.00**. Deducting this amount from the security deposit plus zero interest of **\$900.00** leaves **\$410.00** to be returned to the Tenant forthwith.

Conclusion

I Order the Landlord to retain **\$490.00** from the security deposit plus interest of \$900.00 in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for **\$410.00**. If necessary, 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 Act.

Dated: January 26, 2023

Residential Tenancy Branch