



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S MNDCL-S FFL

Introduction

This hearing was convened as a result of the landlords' Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for a monetary order for \$1,515.45 for damages to the unit, unpaid utilities, for authorization to retain all or part of the tenants' security deposit towards any amount owing, for money owed or compensation for damage or loss under the Act, and to recover the cost of the filing fee.

An agent/translator for the landlords, SW (agent) and landlord KHK (landlord) attended the teleconference hearing and gave affirmed testimony. During the hearing the agent and landlord were given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated June 7, 2022 (Notice of Hearing), application and documentary evidence (Hearing Packages) were considered. The agent testified that the Hearing Packages were served on the tenants by registered mail on June 9, 2022. Two registered mail tracking numbers were submitted in evidence and the tracking numbers have been referenced on the cover page of this decision for ease of reference.

According to the Canada Post online registered mail tracking website and the documentary evidence submitted both Hearing Packages were successfully signed for and accepted by both tenants at the address listed as their written forwarding address provided to the landlord by the tenant in an email dated May 9, 2022. The first Hearing Package was signed for and delivered on June 14, 2022, whereas the second Hearing Package was signed for and delivered on June 28, 2022.

Based on the undisputed evidence before me, I find the tenants were sufficiently served under the Act on June 14, 2022 and June 28, 2022, which were the two dates the tenants signed for and accepted their two Hearing Packages mailed by the landlords.

Given the above, and pursuant to Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1 and 7.3, which deal with consequences for not attending a dispute resolution hearing, I find this application to be unopposed by the tenants as the tenants were served and did not attend the hearing.

Preliminary and Procedural Matters

The agent confirmed the email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. As the agent confirmed an email address for tenant MBR, the decision will be sent by regular mail to both tenants at the email address of tenant MBR.

Issues to be Decided

- Are the landlords entitled to a monetary order under the Act, and if so, in what amount?
- What should happen to the tenants' security deposit under the Act?
- Are the landlords entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on January 31, 2022 and was scheduled to convert to a month-to-month tenancy after January 30, 2023. The tenants' monthly rent was \$1,650 per month and was due on the first day of each month. The tenants paid a security deposit of \$825 at the start of the tenancy, which the landlords continue to hold.

The landlords are seeking the following:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Toilet repair	\$446.25
2. Wall and tile damages	\$840
3. Unpaid utilities	\$129.20
4. Filing fee	\$100
TOTAL	\$1,515.45

Regarding item 1, the agent testified that the tenant, without prior notice, hired a plumber and had that plumber remove the only toilet in the rental unit. When the agent stated that they wanted to hire their own plumber and to have the tenants' plumber reinstall the toilet with a new wax ring, the tenants failed to do that and the tenants' plumber reinstalled the toilet onto the old wax ring, which ended up leaking.

The agent stated that they did not discover this until after the tenants vacated as this occurred very close to the end of the tenancy. The agent also stated that at no time did the tenants give the landlord a reasonable opportunity to respond to a complaint about the toilet or give the landlord a reasonable opportunity to have the landlords' plumber attend to inspect to see if there was any problem with the toilet. The agent stated that the landlords' plumber found no problems with the toilet other than the previous tenants' plumber failed to install a new wax ring when the toilet was reinstalled, which is not correct. The agent also presented photo evidence to support that the previous wax ring was crushed and was obviously not new when the toilet was reinstalled.

In addition, the landlords filed in evidence a plumbing invoice for the amount claimed of \$446.25.

Regarding item 2, the landlord has claimed \$840, which includes taxes to repair a very poor job by the tenants who messily applied drywall filling compound to the walls without sanding it. The agent stated that the landlord paid \$840 which is supported by the invoice submitted in evidence, that indicates the following work was repaired by the landlords:

1. Repair damaged drywalls, trims and door jambs as per owner's photos(approximately 5 areas). Paint repaired areas to match existing colours. 2. Repair one broken tile beside the tub. 3. Repair missing kitchen door knobs, will try to match the same. 4. Quote includes all labour and supplies.	PAID	
		\$ 800.00
	Subtotal:	\$ 800.00
	GST 5%:	\$ 40.00
	Total:	\$ 840.00
	Balance:	\$0.00

GST/HST No. 723438685RT0001

The agent also submitted photos of the broken tile in the bathroom and a missing kitchen door knob in support of this portion of their claim.

Regarding item 3, the landlord is seeking \$129.20 for unpaid utilities. The tenancy agreement indicates that the monthly rent does not include electricity, natural gas or heat. The landlord also provided usage reports to support that the tenants owe \$129.20.

Analysis

Based on the undisputed documentary evidence and the undisputed testimony of the agent and landlord provided during the hearing, and on the balance of probabilities, I find the following.

As the tenants was served and deemed served with the Hearing Packages and did not attend the hearing, and as noted above, I consider this matter to be unopposed by the tenants. As a result, I find the landlords' application is fully successful in the amount of **\$1,515.45**, which includes the recovery of the cost of the filing fee pursuant to section 72 of the Act in the amount of \$100 as the landlords' application is fully successful. I have considered the undisputed testimony of the agent and that the application was unopposed by the tenants. The landlord continues to hold the tenants' security deposit of 825, which has accrued **\$1.63** in interest for a total security deposit including interest of **\$826.63**.

I find the tenants breached section 37(2)(a) of the Act, which applies and states:

Leaving the rental unit at the end of a tenancy

37(2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear
[emphasis added]

I find the tenants damaged the toilet but failing to install a new wax ring when it was reinstalled and I do not apply any depreciation as I find that act is negligent. I also find the wall damage is negligent by failing to sand the drywall compound whatsoever or replace the broken tile or missing kitchen cabinet.

Therefore, I authorize the landlords to retain the tenants' full security deposit including interest of \$826.63 in partial satisfaction of the landlords' monetary claim. I grant the

landlords a monetary order pursuant to section 67 of the Act, for the balance owing by the tenants to the landlords in the balance owing of **\$688.82**.

Conclusion

The landlords' application is fully successful.

The landlords have been authorized to retain the tenants' full security deposit including interest of \$826.63 in partial satisfaction of the landlords' monetary claim. The landlords have been granted a monetary order pursuant to section 67 of the Act, for the balance owing by the tenants to the landlords in the amount of \$688.82. The landlords must serve the tenants with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

This decision will be emailed to both parties.

The monetary order will be emailed to the landlord only for service on the tenants.

The tenants can be held liable for all costs related to enforcing the monetary order, including court costs.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 6, 2023

Residential Tenancy Branch