



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Parties	File No.	Codes:
(Landlord) J.J. and G.J.	310061418	MNDL-S, FFL
(Tenant) L.H.	310062280	MNDCT, MNSD, FFT

Introduction

This hearing dealt with cross applications for Dispute Resolution under the *Residential Tenancy Act* ("Act") by the Parties.

The Landlords filed claims for:

- \$1,350.00 compensation for damage caused by the tenant, their pets or guests to the unit or property – holding the security deposit for this claim; and
- recovery of their \$100.00 application filing fee.

The Tenant filed claims for:

- \$1,750.00 compensation for monetary loss or other money owed;
- \$1,350.00 for the return of the security deposit; and
- recovery of her \$100.00 application filing fee;

The Tenant and the landlords, J.J. and G.J. ("Landlords"), appeared at the first teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. The Parties' claims were complex and required more time to review than was available in the first, one-hour hearing. As a result, the Parties reconvened for a second one-hour teleconference hearing and provided additional affirmed testimony.

During the hearings, the Tenant and the Landlords were given the opportunity to provide their evidence orally and respond to the testimony of the other Party. I reviewed

all oral and written evidence before me that met the requirements of the Residential Tenancy Branch (“RTB”) Rules of Procedure (“Rules”); however, only the evidence relevant to the issues and findings in this matter are described in this decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing.

Preliminary and Procedural Matters

The Parties provided their email addresses in their applications, and they confirmed these in the hearing. They also confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing. I also advised the Parties that they are not allowed to record the hearing and that anyone who was recording it was required to stop immediately.

Issue(s) to be Decided

- Are the Landlords entitled to a monetary order, and if so, in what amount?
- Are the Landlords entitled to recovery of their Application filing fee?
- Is the Tenant entitled to a Monetary Order, and if so, in what amount?
- Is the Tenant entitled to Recovery of her \$100.00 Application filing fee?

Background and Evidence

The Parties agreed that the periodic tenancy began on October 15, 2019, with a monthly rent of \$2,700.00 due on the first day of each month. The Parties agreed that the Tenant paid the Landlords a security deposit of \$1,350.00, and no pet damage deposit. The Landlords retained the security deposit to apply to this claim. The Parties agreed that the tenancy ended when the Tenant vacated the rental unit on January 15, 2022.

LANDLORDS’ CLAIMS

In the hearing, the Landlords explained their claims, as follows:

For the dog door that she put in the back door without prior approval. We never agreed to that. She had someone install it - whatever she did, I never agreed to a dog door. So, when G.J. found out she put it in, she said she was going to take the door with her, we told her we got custom doors from one company with a lifetime guarantee.

She also put up a fence between the garage and the deck; I never agreed to that.

Landscaping – I never agreed to a load of rocks that she had dumped.

We're just claiming to keep her security deposit. I don't know what to do with it.

The cost of the door is \$1,650.00 without the frame. The invoice is in the evidence.

I note a quote the Landlords submitted into evidence for a replacement door, which states: "The cost for the slab only is \$1,650 plus tax, (plus hardware) so about \$1,900. If we replace the frame and the door it would be roughly \$3,500 plus tax."

The Tenant responded, as follows:

My first comment is that I never spoke to [J.J.] in the whole time; [G.G.] was the only contact. On December 21, I texted with [G.G.] about the yard. I asked if I could install a dog run and dog door, he said 'Go for it'.

On February 1, 2021, there were additional texts about flooding in yard. On February 8, there was gravel and work being done. On February 10, I sent pictures to [G.G.] and he said it looks great, and asked how it was draining.

[G.G.] came by the house on multiple occasion. He never once commented on the door or the rocks. He came to the yard and looked over the rocks, and nothing was said, other than 'Wow, this looks great'.

On June 23rd, three months after the dog run and the dog door were installed, the lease was updated; there was no issue with dog door. They said: 'We have no issues with how the house is being taken care of'.

[J.J.] had questioned then the extent of the work. I was upset by this, as he had given me approval. He wrote me a text saying "Don't worry..."

Up until December, I offered to move the door; I could sell it. The dog door that was left is over \$1,000.00. I would remove the door and sell it myself, if there was going to be an issue with the security deposit.

On December 13, 2021, [G.G.] advised me via text that they were going to show the house on December 16. I said no problem, let me know if you want me to remove the door. He said as long as it isn't open or unlocked all the time. At no point did they say they were going to hold my security deposit. On December 13th, I again offered to replace the door, because I needed my security deposit. I was in dire straits having to move. There were a lot of privacy breaches; I just wanted to get out of there. He said I could leave it.

He showed the house, and the dog door was shown as a feature. I left all the keys, as they requested, and nothing was said about holding my security deposit back.

The Landlords responded:

We never agreed that she could put in a dog door. [G.G.] said she could do the dog run and some landscaping, but we should have been more descriptive. I did not agree to dumping a load of rocks in the backyard.

I couldn't get another door until June. What was I supposed to do? I had to keep the door. She said in one of her texts – Nov 11 – “you can absolutely get a quote. ... the dog door is not unique... I'm aware of the cost, as I have the same door in [town]”, so she said to get a quote.

And there was wood at the side of the house, he said he would help move it. Not a dog run or a fence. After it was done, she sent pictures. [G.G.] said wow it looks great. She never said she was going to put a truckload of rocks. Plus, the photos did not show the fence.

I asked G.G. if he had seen the changes the Tenant made when he visited the residential property, as the Tenant said he did.

I only saw the rock. I didn't see the door until July 29, 2021. It's in the back door off the main kitchen onto the deck. I only come in through the very back, other than coming to the front door. I never saw a hole in the door.

J.J. said:

[G.] was dealing with most of the house stuff, because my sister and Dad had just passed away. But also, I had a letter from a friend who went with [G.] on July 29 about the batteries. He said that is when [G.] said to him and [the Tenant], 'This is the first I've seen the dog door'. He said that to [the Tenant], who said 'Oh you've seen that before'; [G.] said he had not. He took a picture and sent it to me and said there's a dog door in the door. What am I supposed to do by then. It's already in the door.

G.G. said:

I went all through my texts; I never said she could build a dog door. She said it was my understanding that landscaping and the dog run meant I could put a dog door in, also. There were no statements that I said. 'okay cut a dog door out'.

I reviewed as many of the many texts and emails that I could, which the Tenant submitted; however, she did not direct me to, nor could I find any such communication from the Landlords saying that the Tenant was allowed to cut a dog door into the kitchen door. Similarly, I did not find any communication from the Landlords with their permission to deposit a load of rocks in the backyard.

The Tenant said:

I just want to reiterate that my lease was extended after everything was built. [G.] was at the house between December and June no less than six times. If there were any concerns, why would they have extended my lease? And I did receive verbal approval and everything was through him.

The Landlords said: "You did these things without asking, which is the only reason we are here. A truckload of rocks, a permanent gate, chicken wire, never had approval.

The Tenant said: "I did have approval . My communication was with [G.] from day one, until I announced I was moving out."

TENANTS' CLAIMS

#1 COMPENSATION FOR MONETARY LOSS/OTHER \$\$ OWED → \$1,750.00

I noted that the Tenant's claim is for more than the sum of her totals, and she said to go

with the lower amount, as it must have been a mistake.

A. PAINT AND SUPPLIES → \$334.39

The Tenant said she submitted an invoice for this claim. The Tenant's evidence in this regard consists of a text from a painter saying:

Labor \$1365.00
Supplies \$334.39
Total \$1699.39

The painter also said that she worked 45½ hours.

I asked the Tenant why she painted, and she said:

The house hadn't been renovated in a long time, certain areas. When I signed the second lease, I put in extra money into the house. I would never have invested the money on painting the house if I had known I was leaving in three months.

I asked the Tenant if she had the Landlords' permission to paint the residential property. She said: "I don't think I asked about it – actually, [G.] and I discussed it and I will look that up."

The Landlord said:

She asked to paint when she first moved in there. That was all on her own dime – one feature wall. She wanted to pay for it, but that was her thing. Days before they moved in, the fire place was put in, and the whole wall was repainted. My sister painted it two to three years before she passed away. We told [the Tenant] that we have a 50% off coupon, but she said no, she'll do it. We never agreed to pay for any of her painting.

The Tenant said:

The feature wall I did take on, on my own – that was separate painting. [G.] never offered me a 50% off. I would say that I painted because I was planning on staying there. I wouldn't have expensed on the dog run, either.

B. PAINTING LABOUR → \$1,365.00

I asked the Tenant how she arrived at this amount, and she said: “That’s based on a receipt – a professional painter did it, and that’s in my evidence.” The Tenant said she selected this painter, because: “She was the cheapest person with best references.”

The Landlords said: “We never said we would pay for anything that was done at the house.”

#2 RETURN OF SECURITY DEPOSIT → \$1,350.00

The Tenant said that the Landlords have not returned any of the security deposit, and that: “...it has been financially challenging for me to off set that.”

The Tenant explained why she moved out, saying:

I felt unsafe. [G.] had accessed my home on a number of occasions without my permission. The final straw was actually, I gave notice and he accessed the home without my permission and disclosed that there were video cameras there – I felt completely unsafe even before that occurred. That left me completely unsafe and scared. I had someone in the home with me, because I felt intimidated and bullied.

The Landlords said that the Tenant misunderstood their comment on having made videos of the residential property prior to the start of the tenancy. They said they did not tell her that they had left cameras operating in the rental unit.

Analysis

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

LANDLORD’S CLAIMS

RTB Policy Guideline #1, “Landlord & Tenant – Responsibility for Residential Premises” (“PG #1”) is intended to clarify the responsibilities of the landlord and tenant regarding maintenance, cleaning, and repairs of residential property, and obligations with respect to services and facilities. PG #1 states:

RENOVATIONS AND CHANGES TO RENTAL UNIT

1. Any changes to the rental unit and/or residential property not explicitly consented to by the landlord must be returned to the original condition.
2. If the tenant does not return the rental unit and/or residential property to its original condition before vacating, the landlord may return the rental unit and/or residential property to its original condition and claim the costs against the tenant. Where the landlord chooses not to return the unit or property to its original condition, the landlord may claim the amount by which the value of the premises falls short of the value it would otherwise have had.

PROPERTY MAINTENANCE

1. The tenant must obtain the consent of the landlord prior to changing the landscaping on the residential property, including digging a garden, where no garden previously existed.
2. Unless there is an agreement to the contrary, where the tenant has changed the landscaping, he or she must return the garden to its original condition when they vacate.
- ...
4. The tenant must obtain the consent of the landlord prior to erecting fixtures, including a fence.
- ...
8. If the tenant leaves a fixture on the residential premises or property that the landlord did not agree the tenant could erect, and the landlord wishes the fixture removed, the tenant is responsible for the cost of removal.

Section 37 of the Act states that a tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Based on the evidence before me overall, I find that the Tenant has not provided sufficient evidence to prove that she had the Landlords' permission to put a hole for the dog in the back door. Further, I find that she did not have the Landlords' permission to deposit a load of rocks in the back yard, or to make other changes to the landscaping that she made.

I find that PG #1 and the Act requires the Tenant to return the property to the condition it was in at the start of the tenancy. I find that the Landlords have provided sufficient

evidence to meet their burden of proof on the merits of their claim. I, therefore, **award the Landlords with \$1,350.00**, as claimed, the amount of the security deposit, pursuant to sections 37 and 67 of the Act and PG #1. Given their success in this matter, I also **award the Landlords** with recovery of their **\$100.00** Application filing fee from the Tenant, pursuant to section 72 of the Act.

TENANTS' CLAIMS

Based on the evidence before me overall in this matter, I find that the Tenant failed to provide sufficient evidence that she had the Landlord's permission to paint the residential property. Further, I find that there is no evidence before me that the Landlords agreed to pay the Tenant for having painted the rental unit. Accordingly, I find on a balance of probabilities that the Tenant's claim must fail. I **dismiss the Tenant's claim without leave to reapply**, pursuant to section 62 of the Act.

Further, as I have awarded the Landlords with recovery of the Tenant's security deposit, pursuant to their successful application, I find the Tenant is unsuccessful in her claim for the recovery of her security deposit. This claim is also **dismissed without leave to reapply**, pursuant to section 62 of the Act.

Summary and Off set

I find that the Landlords' claims meet the criteria under section 72 (2) (b) of the Act to be offset against the Tenant's security deposit of \$1,350.00 in partial satisfaction of the Landlord's monetary awards. I authorize the Landlords to retain the Tenant's \$1,350.00 security deposit, and I grant the Landlords a **Monetary Order** from the Tenant for **\$100.00**, representing the Landlords' award for the recovery of their security deposit.

The Tenant is unsuccessful in her claims and I, therefore, dismiss her claims wholly, without leave to reapply, pursuant to section 62 of the Act.

Conclusion

The Landlords are successful in their claims for the retention of the Tenant's \$1,350.00 security deposit, and for recovery of their \$100.00 application filing fee. The Landlords provided sufficient evidence to support their claims on a balance of probabilities.

The Tenant failed to provide sufficient evidence to support her claims, and therefore, the Tenant's claims are dismissed wholly without leave to reapply.

The Landlords are authorized to retain the Tenant's **\$1,350.00** security deposit. The Landlords are granted a **Monetary Order** of **\$100.00** from the Tenant for the return of their \$100.00 application filing fee.

This Order must be served on the Tenant by the Landlords and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

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 28, 2022

Residential Tenancy Branch