



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, MNRL-S, FFL

Introduction

This hearing was reconvened 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. A Monetary Order for unpaid rent - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. 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.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The following are agreed or undisputed facts: the tenancy under written agreement started on April 1, 2019 and ended on October 23, 2020. The tenancy agreement provides that rent of \$4,800.00 was payable on the first day of each month. The Parties mutually conducted a move-in condition inspection with a completed report copied to the Tenant. No move-out report was completed by the Landlord. The unit was sold on March 11, 2021. The security deposit was returned to the Tenant as ordered in a previous decision dated September 8, 2021.

The Landlord withdraws their rent claim.

The Landlord states that the Tenant left the 3rd floor bedroom floor damaged by pet pee and as the area was green in color the Landlord suspected that mold was present. The Landlord has a mold inspection done and claims the costs of \$262.50. The Tenant denies that the pets damaged the flooring and states that shortly after move-in a massive flood occurred in the 3rd floor bathroom with water going into the bedroom and another room. The Tenant states that the Landlord's photos show damage from the flood and that while the Landlord replaced other flooring with insurance the Landlord only used dryers in the bedroom and other room. The Landlord states that there was no water damage in the bedroom from the flood. The Landlord states that they did not have any dogs while living in the unit prior to this tenancy.

The Landlord states that the Tenant failed to leave the outdoor deck clean. The Landlord states that while the deck was not clean at move-in the Tenant was paid for cleaning the area. The Landlord claims \$921.66 as the costs of labour and supplies. The Tenant states that they left the deck clean having washed it with soap and water. The Tenant states that the Landlord's photos appear to show the state of the deck at move-in and not at move-out. The Tenant states that during the walk through at the end of the tenancy the Landlord's agent never raised any issues and informed the Tenants that they would be returned their security and pet deposits. The Landlord states that the photos of the deck were taken on November 1, 2020, while the Landlord was with their property manager. The Landlord confirms that no witness statement was provided from the property manager.

The Landlord states that the Tenant left the carpet dirty and claims the cleaning costs of \$208.00. The Landlord confirms that no receipt or invoice for cleaning costs was provided for this dispute. The Tenant states that the carpets were double cleaned, once by the restoration company at the end of September 2020 and again by the Tenant on

October 23, 2020. The Tenant states that they used a rental carpet cleaner and that the carpets were not very dirty before this cleaning.

The Landlord states that the Tenant left the washer and dryer very dirty with pet hairs. The Landlord provides a photo of the dryer and confirms that no photo of the washer was provided. The Landlord states that they tried to clean the appliances and that they would not come clean, so they purchased a used washer and dryer. The Landlord states that the appliances that were left dirty were new in 2009. The Landlord claims \$645.00 for the costs of replacing the washer and dryer. The Landlord states that they have no receipt or invoice as they paid cash for the appliances. The Tenant states that at the end of the tenancy they put their cleaning rags in the washer and dryer and that this may have left the appliances unclean. The Tenant states that the washer had been replaced by the Landlord with a used washer 4 months prior to the end of the tenancy. The Landlord states that the washing machine was purchased after the Tenant moved out.

The Landlord states that the Tenant left the approximate 8,000 square foot home unclean. The Landlord claims the cleaning costs of \$5,400.00. The Landlord provides an invoice for three persons' work. The Landlord states that their parents cleaned the unit in exchange for living at the unit without paying rent. The Landlord states that the 3rd person who did cleaning also did the cleaning because this person was living with the parent for two months at the unit. The Landlord confirms that no photos of an unclean unit was provided because most of the photos were taken by the Landlord after the cleaning was done. The Landlord states that the Tenant told the Landlord that since the renovation company cleaned the unit no further cleaning was required. The Tenant states that they left the unit reasonably clean except for the washer and dryer.

The Landlord states that the unit required painting at the end of the tenancy. The Landlord claims the paint cost of \$2,310.00 and provided an invoice dated January 10, 2021. The Landlord does not know when the unit had been previously painted.

The Tenant states that none of the walls had been painted at move-in and that due to the flood on the top floor of the unit in September 2019 the Tenants moved into the coach house but left some belongings in the unit for the remediation period. The Tenant states that they continued to reside in the coach house until right before the end of the tenancy. The Tenant states that after the flood painters were in the unit over several months and painted the rooms at different time. The Tenant states that the remediation from the flood started immediately with the removal of the flooring.

The Landlord states that the Tenant moved back from the coach house but does not know if or when that occurred. The Landlord confirms that the move-in condition report is correct.

The Landlord also claims \$6,825.00 to paint the unit and provides an invoice dated January 18, 2021. The Landlord states that they believe this invoice was for repairs work done by their contractor.

The Tenant states that the contractor's invoice is handwritten and from an incorporated company. The Tenant states that the invoice contains no g.s.t. number, no address and no company identification other than the name. The Tenant states that the invoice sets out no description of the work done with no details or hours for the work completed. The Tenant states that the paint invoice for \$6,825.00 provides no idea of what was painted. The Tenant states that they believe the invoices are fraudulent and done by a friend of the Landlord. The Tenant states that there is nothing to support the repairs were done.

The Landlord's Witness (the "Contractor") states that they own the incorporated company and that although they have a g.s.t. number this is not usually put on their invoices. The Contractor states that they recall some repairs to the drywall done for the invoice dated January 10, 2021 and some bedrooms being painted for the January 18,

2021 invoice. The Contractor states that they cannot recall when repairs were made to the drywall but that it was done before January 10, 2021 and did not take long. The Contractor states that they were at the unit for a few hours every day. The Contractor states that they think the work was done in or around December 2020. The Contractor states that the work done for the January 18, 2021 invoice started and ended close to this same time. The Contractor states that although they have no clear recollection of the state of the unit they did recall floor damage apparently made by dogs, dirty surfaces, dirty carpet and small holes on walls. The Contractor recalls that some painting to the unit was done. The Contractor states it had no involvement with the outer area of the unit. The Contractor states that they provided a handwritten invoice for their work on the unit because their computer was "down". The Tenant states that the invoice from the Contractor is dated January 18, 2021 and that the unit was listed just days after the move-out date on November 10, 2020 with none of the photos for the listing showing anything damaged or unclean.

The Landlord states that the unit had been listed some time before the start of the tenancy that the photos used for the November 2022 listing were from both before and after the tenancy started. The Landlord states that they cannot recall what photos came from when. The Landlord also denies that the unit was listed in November 2022. The Tenant states that the photos in the November 2022 listing show the flooring that had been replaced just weeks prior to their move-out and that the unit cleaning had been done weeks before the move-out.

The Tenant states that they were residing in the coach house at the time of the renovations and were not even in the main house. The Tenant states that there are no dates or details of the work done on the Contractor's invoice. The Tenant argues that the invoice is unprofessional and that a "downed computer" is not a good excuse for the handwritten invoice. The Tenant argues that the Landlord's evidence exhibits are sloppy and that the Landlord obtained no quotes for the work done by the Contractor. The Tenant states that at the move-out walk through with the property manager all was

found to be great and that the manager would be preparing the return of the security deposit. The Tenant states that if there were issues with the unit the Tenant was not given any information about this or given any opportunity to fix any problems. The Tenant argues that the Landlord's claim is only in retaliation for the Tenant's previous successes in obtaining monetary orders against the Landlord. The Tenant argues that the Landlord has not provided any other witness evidence to support the claims and that three previous claims by the Landlord set out damage claims that are not anywhere close to the costs being claimed now.

The Landlord states that they did a walkthrough of the unit with the property manager and the Witness and that this was recorded on video. The Landlord confirms that this video was not provided as evidence for this hearing.

Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. 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 the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established.

Given the lack of an invoice to support that the Landlord incurred the losses claimed for carpet cleaning and replacement costs for appliances I dismiss the claims for \$208.00 and \$645.00.

There is no move-out inspection report provided as evidence of the state of the unit at move-out. Although the Landlord's evidence is of having a video of an inspection with the manager the Landlord did not provide this video. From this I infer that the video would not support the Landlord's testimony or other evidence. It is undisputed that a manager did a walk through with the Tenant at the end of the tenancy however the Landlord did not provide any evidence from the manager to dispute the Tenant's version of the facts at move-out. The Landlord provides photos, captioned in a language other than English, some of which are not clear and some of which are repeated photos. There are no date stamps on any of the photos. There are no photos of the unit being unclean to the extent reflected in the amount of costs being claimed. For these reasons and given the Tenant's evidence of having cleaned the outdoor deck and of having left the unit reasonably clean I find on a balance of probabilities that the Landlord has not substantiated that the Tenant caused the Landlord to incur any cleaning expenses. I therefore dismiss the claim of \$921.66 for the deck cleaning and \$5,400.00 for the unit cleaning.

There is no supporting evidence that any flooring was damaged by pet urine other than the vague testimony of the Witness that as a result I consider not to have much reliable weight. The photos of floor areas only show damage from moisture and not the source of the moisture. While the Landlord provides a mold inspection invoice, there is no report of that inspection that and there is no evidence that mold was present. For these reasons and given the tenant's evidence is that any damage to the floors was caused by the prior flood, I find on a balance of probabilities that the Landlord has not substantiated that they did anything to cause the Landlord to incur costs for a mold inspection. I dismiss the claim for the inspection costs.

The Landlord does not give evidence of when the unit was last painted and did not give any evidence to rebut the Tenant's evidence that areas of the unit was painted after the flood. While the Landlord provides photos showing some paint scratches and dents and hole damage, even if this was damage to areas not painted as a result of the flood,

given the lack of evidence that the unit had all been freshly painted within the four years previous to the end of the tenancy, I find that the Landlord has not substantiated that the paint in these areas had any useful life and that the Landlord is therefore not entitled to any paint costs as these remain with the Landlord. The Landlord gave inconsistent evidence in relation to the costs claimed for the \$6,825.00 as repair costs. The invoice only sets out that the costs are for painting. This inconsistency and lack of clarity tends to diminish the reliability of the Landlord's overall evidence. The Landlord's Witness testimony is vague and also inconsistent with the Landlord's as the Witness refers to the claim of \$2,300.00 as costs for drywall repairs. The Witness's invoices do not contain any detail. Given these inconsistencies I find that the Landlord has not substantiated the claim for \$6,825.00 and I dismiss this claim.

As the Landlord has withdrawn its rent claim and as none of the other claims have any merit, I find that the Landlord is not entitled to recovery of the filing fee and in effect the Landlord's application is dismissed in its entirety.

Conclusion

The application is dismissed.

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: February 1, 2023

Residential Tenancy Branch