



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing was convened in response to an application by the Tenants and an application by the Landlords pursuant to the *Residential Tenancy Act* (the “Act”).

The Landlords applied on June 13, 2022 for:

1. A Monetary Order for damages to the unit - Section 67;
2. A Monetary Order for compensation - 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 Tenants applied on June 27, 2022 for:

1. An Order for the return of the security deposit - Section 38; and
2. 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 confirms that although the Tenant’s evidence was sent to the Landlord by registered mail the Landlord was out of the country and did not collect the mail. The evidence was returned to the Tenants. The Tenant states that the Landlord was informed by email from the Tenant on July 16, 2022 about the return of the evidence package but did not collect the package.

Rule 3.15 of the Rules of Procedure provides that the respondent must ensure that evidence intended to be relied upon at the hearing must be given to the other party and the Residential Tenancy Branch (the “RTB”) as soon as possible and not less than 7 days before the hearing. Although the Landlord did not receive the Tenant’s evidence package, perhaps from the Landlord’s own lack of action, it is noted that no evidence from the Tenant was provided to the RTB. As the Tenants did not provide their evidence to the RTB and as the Landlord did not receive the Tenants’ evidence I find that there is no documentary evidence to consider from the Tenants.

Issue(s) to be Decided

Are the Landlords entitled to the monetary amounts claimed?

Are the Tenants entitled to return of the security deposit?

Are the Parties entitled to recovery of their filing fees?

Background and Evidence

The following are agreed or undisputed facts: the tenancy under written agreement started on December 1, 2021 on a fixed term to June 1, 2022. Rent of \$2,500.00 was payable on the first day of each month. At the outset of the tenancy the Landlords collected \$1,250.00 as a security deposit. The tenancy agreement provides that the Tenants are responsible for the costs of utilities. The Landlords ended the tenancy for landlord’s use. The Tenants removed their belongings from inside the unit and returned the keys to the unit on June 2, 2022. The Tenants’ belongings that were left outside the unit were removed by June 4, 2022. On June 10, 2022 the Landlords returned \$225.00 of the security deposit by e-transfer and retained the remaining \$1,025.00.

The Landlord states that the Tenants’ forwarding address was received on June 7, 2022 in a form left at the Landlord’s doorstep. The Tenant states that they provided their forwarding address verbally on June 3, 2022 and in writing on June 26, 2022.

The Landlord states that the Parties mutually conducted a move-in inspection with a completed inspection report copied to the Tenants. The Tenant states that no mutual inspection took place as the Tenant was in surgery when the Landlord did the inspection. The Tenant states that the Landlord sent the move-in inspection report to the Tenant's work email. The Landlord agrees that there was no mutual inspection.

The Landlord states that the Tenants were given two offers for a move-out inspection and declined to attend either. The Landlord states that the inspection was completed alone by the Landlord but that no inspection report was completed. The Tenant confirms that they declined the move-out inspection offers.

The Landlords claims \$608.99 for unpaid hydro costs for the period March 25 to May 24, 2022. The Landlord provides the hydro bill for these costs. The Tenants do not dispute this cost. The Landlords claim an additional amount for hydro costs from May 25 to June 4, 2022. The Landlord does not provide the hydro bill for this claim.

The Landlord states that the Tenant AS was alone in moving the belongings left outside the unit and that they agreed that the Landlord would assist with the moving for the cost of \$20.00 per hour and gas consumption. The Landlords claim \$200.00 for 10 hours of labour and \$100.00 for the cost of gas. The Landlords did not provide any gas receipts. The Tenant states that there was no agreement on any amount of money to be paid to the Landlord for the Landlord's help in moving the belongings. The Tenant confirms however that there was an agreement that the Landlord would be paid for their time. The Tenant states that the Landlord spent about 5 hours helping with the move. The Tenant argues that the Landlord is not entitled to the costs claimed as the Landlord just "dumped" the Tenants' belongings and that the Tenant was not satisfied with the work done by the Landlord.

The Landlord states that the Tenants left a carpet stained by pet feces or vomit and claims \$40.00 as the Landlord's time to clean the area and \$35.00 for the cost of

deodorizer supplies. The Landlord provides no receipt for the supplies. The Landlord states that the carpets were noted as being in good condition at move-in. The Tenant states that the carpet is in the area used by both the Landlord and Tenants as storage only and although the area was included in the tenancy agreement the Tenants did not otherwise use or reside in that area. The Tenant confirms that they have a cat and did not clean the carpet in that area. The Tenant states that the move-in report notes pre-existing stains on the carpets. The Landlord confirms that the move-in report marks the carpets as stained.

Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit.

Although the Landlord's right to claim against the security deposit for damages to the unit may have been extinguished at move-in, the Landlord remains entitled to claim against the security deposit for other claims. Given the date of the Landlord's application and the Tenant's evidence of verbal provision of the forwarding address I find that the Landlord accepted valid receipt of the Tenants' forwarding address provided verbally on June 3, 2022. As the Landlord made its application to claim against the remaining security deposit within 15 days of receipt of this forwarding address I find that the Tenants are not entitled to return of double the security deposit.

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 and that costs for the damage or loss have been incurred or established. Given the Tenants' agreement that they owe **\$608.99** for hydro I find that the Landlord has substantiated an entitlement to this amount. As no bill was provided for the remaining period of hydro costs claimed, I dismiss this claim.

Given the undisputed evidence of an agreement to pay the Landlord for help with the move of the Tenants' belongings and as the Landlord acted in reliance of an expectation of some amount of payment, I find that the Landlords are entitled to compensation for the moving work. The Tenants have not provided any supporting evidence of the Landlord acting negligently in moving the Tenants' belongings. As there is no evidence to support any amount to be paid and as there is no evidence to support gas costs being claimed, I find that the Landlords have only substantiated a nominal amount of **\$100.00**.

Given the undisputed evidence of pre-existing stains on the carpet and as there is no duly completed move-out report or photos to support new stains and given the Tenant's evidence of not having used the room during the short term tenancy of 6 months, I find on a balance of probabilities that the Landlord has not substantiated the claim for carpet cleaning and I dismiss this claim.

As the Landlords' claims have met with substantial success, I find that the Landlords are entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$808.99**. Deducting this amount from the remaining security deposit plus zero interest of **\$1,025.00** leaves **\$216.01** owed to the Tenants. As the Tenants' claim has met with some success I find that the Tenants are also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$316.01**.

Conclusion

I grant the Tenants an order under Section 67 of the Act for **\$316.01**. 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: March 2, 2023

Residential Tenancy Branch