



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Devon Properties
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 unpaid rent - Section 67;
2. A Monetary Order for damages to the unit - 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 did not attend the hearing. I accept the Landlord’s evidence that each Tenant was served with the application for dispute resolution, notice of hearing and evidence (the “Hearing Package”) by registered mail on August 30, 2022 in accordance with Section 89 of the Act. The Tenants were served to the address given on the move-out inspection dated July 31, 2022. Postal evidence indicates that the Tenants did not collect the mail despite having been given notice of the registered mail. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenants are deemed to have received the Hearing Package regardless of them not collecting the mail. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to recovery of the filing fee?

Is the Landlord entitled to retain the security deposit?

Background and Evidence

The tenancy started on December 15, 2020 and ended on July 31, 2022. At the outset of the tenancy the Landlord collected \$732.50 as a security deposit. Rent of \$1,486.98 was payable on the first day of each month. The Parties mutually conducted both a move-in and move-out condition inspection with completed reports copied to the Tenants. The Tenants did not agree with the move-out report. The Tenants provided their forwarding address on July 31, 2022.

The Landlord states that the Tenants left the unit a complete mess with no cleaning done. The Landlord claims the cleaning cost of \$360.00 and provides an invoice for this cost.

The Landlord states that the Tenants left a grease spot on the flooring requiring the removal of the flooring seal to remove the stain. The Landlord claims \$100.00 as the cost of re-sealing the area and provides an invoice.

The Landlord states that the Tenants left the unit damaged requiring an employed agent of the Landlord to do repairs with extra wages paid to that employee for the repairs. The Landlord claims \$580.00 paid to the employee. No invoice was provided for this claim.

The Landlord states that the Tenants left all the walls of the unit damaged and requiring paint. The Landlord points to the move-out report and confirms that there is no paint damage noted to any room other than one bedroom. The Landlord states that the unit was new at the start of the tenancy. The Landlord claims the painting costs of \$420.00 and provides an undated print out of the work done.

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 Landlord's undisputed evidence of the state of the unit at move-out I find that the Landlord has substantiated that the Tenant failed to leave the unit and flooring reasonably clean. Given the invoices I find that the Landlord has substantiated an entitlement to the the cleaning and sealing costs of **\$360.00** and **\$100.00**. As the Landlord did not provide an invoice for any employee's work, I find that the Landlord has not provided sufficient evidence to support that the costs being claimed were incurred. I therefore dismiss the claim for \$580.00. As there is no evidence to support damage to more than the one bedroom I find that the Landlord has not substantiated the costs claimed for painting all the walls in the unit. As there are no details on the invoice setting out the costs to paint the one room I find that the Landlord has only substantiated a nominal sum of **\$50.00** for the damage.

It is noted that the Landlord did not make any reference at the hearing to a claim for unpaid rent as contained in the application. As this may have been an oversight by the Landlord, but may not now be determined, I dismiss this claim with leave to reapply.

As the Landlord's claims have met with some success, I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$610.00**. Deducting this

entitlement from the security deposit plus interest of **\$736.69** leaves **\$126.69** to be returned to the Tenants.

Conclusion

I Order the Landlord to retain **\$610.00** from the security deposit plus interest of **\$736.69** in full satisfaction of the claim.

I grant the Tenants an order under Section 67 of the Act for **\$126.60**. 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: April 19, 2023

Residential Tenancy Branch