



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 Landlords 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. A Monetary Order for compensation - Section 67;
4. An Order to retain the security deposit - Section 38; and
5. 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. The Tenants confirm receipt of the Landlords’ evidence and confirm that they did not provide any documentary evidence for the hearing.

Preliminary Matter

It was noted that the Landlord uploaded a number of different monetary order worksheets. The Tenant states that they were provided with only one monetary order worksheet and the Tenant confirms that this is the same worksheet as provided to the RTB by the Landlord on August 18, 2022. Given the Tenant’s confirmation of the monetary order worksheet provided to the Tenant by the Landlord I will only consider the items and amounts claimed on that worksheet.

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 following are agreed or undisputed facts: the tenancy under written agreement started on June 1, 2020 and ended on June 15, 2022. Rent of \$2,000.00 was payable on the first day of each month. On May 31, 2020 the Landlord collected \$1,000.00 as a security deposit. The Parties mutually conducted a move-in inspection with a completed report copied to the Tenants. No forwarding address was given to the Landlord. On April 29 or May 1, 2022, the Tenants gave notice to end the tenancy for June 15, 2022.

The Landlord states that they gave the Tenants more than two offers to conduct a move-out inspection however the Landlord cannot recall the details of those offers. The Tenant did not attend the move-out inspection that the Landlord conducted alone on June 15, 2022. The Tenant states that on June 14, 2022 the Landlord only made one offer for a move-out inspection to be conducted on June 15, 2022. The Tenant states that they were busy with their move and did not respond. The Tenant states that the Landlord made no other offers for an inspection.

The Landlord states that the Tenants failed to pay rent for the period June 1 to 15, 2022 and the Landlord claims \$1,000.00. The Landlord states that given the unclean state of the unit at move-out the Landlords were unable to immediately obtain new tenants. The Landlord states that the next tenancy was started on August 1, 2022 with monthly rent of \$2,400.00. The Tenants do not dispute that rents were not paid for June 2022.

The Landlord states that the Tenants the carpet with stains and claims \$419.00 as the carpet cleaning costs for the entire unit. The Landlord provides an invoice that does not

detail the costs being claimed. The Tenants state that at the onset of the tenancy the unit and carpets were unclean. The Tenant states that the Landlord had promised to clean the carpets but never did. The Tenant states that stains are noted on the move-in report in a couple of carpet areas. The Tenant states that the Landlord also mixed up the rooms in the notes made to the move-out inspection. The Landlord agrees that there were pre-existing stains but that the Landlord never promised to clean the carpets. The Landlord states that the Tenants were okay with the state of the carpets at move-in that were not that bad.

The Landlord states that while cleaning the unit they found flea bites on their legs. The Landlord states that on a couple of occasions they observed a cat attempting to enter the unit, so the Landlord believes that the Tenants had pets. The Landlord claims \$400.00 as the costs for flea spray. The Tenant states that they did not have any pets that could have been responsible for any fleas but that the lower tenant has five cats.

The Landlord states that the Tenants left behind garbage outside and under the crawlspace. The Landlord claims the land fill costs of \$180.00 and provides receipts for this cost. The Tenant states that garbage and other items were presents under the crawlspace at move-in and that none of the items in the Landlord's garbage photos are the Tenant's belongings. The Tenant states that the unit was also not clean at the outset of the tenancy and that the Tenants had to remove several bags of garbage from inside the unit. The Landlord agrees that some stuff could have been left from the previous tenants.

The Landlord states that the Tenant caused the garage window to be pitted and claims the estimated replacement cost of \$485.12. The Landlord did not replace the window.

The Landlord states that they had to clean the unit at move-out but only claims the costs of cleaning supplies in the amount of \$64.31. The Landlord provides receipts for these costs but was unable to identify them at the hearing other than stating that the receipts

were from a hardware store. The Landlord states that the items being claimed are circled on the receipts. The Tenant states that they do not have any copies of receipts from any hardware store for anything other than paint supplies and that the Tenant does not see any circled items on any receipts.

The Landlord states that the Tenants left a toilet roll holder broken and claim \$27.93 as the replacement cost. The Landlord thinks that the holder was located in the main bathroom and was 10 years old. The Tenant states that they do not recall any broken toilet roll holder and that all the holders were plastic. The Landlord argues that despite the age of the plastic roll they do not believe that the roll broke due to reasonable wear and tear.

The Landlord states that the Tenants failed to pay their share of the water bill costs and claim \$937.87 as 2/3 of the total bills. The Landlord was unable to point to the dates and amounts of any of the bills provided as evidence to support this claim. The Tenant states that the water bills provided as evidence amount to \$1,130.00 and that of this amount the Tenants are only obliged to pay \$753.48 in total.

The Landlord states that the Tenants failed to return the mailbox key and claims the replacement cost of \$30.00. The Landlord does not provide a receipt for this cost.

Analysis

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement whether or not the landlord complies with this Act, the regulations or the tenancy agreement. Based on the undisputed evidence that rent for the period June 1 to 15, 2022 was not paid I find that the Landlord has substantiated its claim to **\$1,000.00**.

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. Given the Landlord's vague evidence in relation to the water costs being claimed I prefer the Tenant's calculations and find that the Landlord has substantiated an undisputed entitlement to **\$753.48** in unpaid water bills.

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, and return any keys to the property. 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. Section 21 of the Regulations provides that a duly completed inspection report is evidence of the condition of the rental property, unless either the landlord or tenant has a preponderance of evidence to the contrary. Given the Landlord's vague evidence in relation to move-out offers, I tend to prefer the Tenant's firmly stated testimony that the Landlord did not make a second offer for the move-out inspection. As a result, I consider that the details in the move out report are, on their own, insufficient to support the state of the unit at move-out.

Given the undisputed evidence that some of the carpets had pre-existing stains and as there is no other evidence to support the state of all the carpets in the unit at the end of the tenancy, I find on a balance of probabilities that the Landlord has not substantiated the costs claimed. However, as the Tenants did not give evidence of having cleaned all of the carpets despite the pre-existing stains, I find that the Landlord has substantiated a nominal sum of **\$100.00** for this breach by the Tenants.

Given the Tenant's evidence of not having pets during the tenancy along with their undisputed evidence that the lower tenant has five pets and as the Landlord has not provided any supporting evidence that the Tenants had a pet that caused the fleas to be present, I find on a balance of probabilities that the Landlords has not substantiated that the Tenant caused the unit to require the flea spray. I dismiss this claim for costs.

Given the Landlord's evidence that at least some portion of the garbage and items were pre-existing items, the Tenant's evidence that none of the items removed by the Landlord belonged to the Tenants and as the Landlord provided no supporting evidence that any of the garbage and items were items belonging to the Tenant I find on a balance of probabilities that the Landlord has not substantiated that the removal costs were caused by the Tenants. I dismiss this claim for costs.

The Landlord's evidence is that no costs were incurred to replace a window and there is no evidence that the Landlord suffered any rental income loss as a result of any damage to a window. For these reasons I find that the Landlord has not substantiated its claim for the costs to replace a window. I dismiss this claim.

Given the evidence of the age of the toilet paper holder and its construction material and as there is no evidence to support a better than average construction or that the Tenants either acted willfully or negligently to damage the holder, I find on a balance of probabilities that the damage to the toilet roll holder is reasonable wear and tear. I therefore dismiss the claim for the replacement costs.

As the Landlord did not provide any receipt for the costs claimed to replace a mail key, I find that the Landlord has not substantiated these costs and I dismiss this claim.

As the Landlord was unable to point to a specific document that contains the receipts for the cleaning supply costs claimed, and as the only receipts described by the Landlord that could be found appear to set out costs for paints as stated by the Tenant, I find on a balance of probabilities that the Landlord has not substantiated that they incurred the cleaning supply costs claimed. I dismiss this claim.

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 **\$1,953.48**. Deducting the

security deposit plus interest of **\$1,006.20** from this entitlement leaves **\$947.28** owed to the Landlord.

Conclusion

I order that the Landlord retain the **deposit** and interest of **\$1,006.20** in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,953.48**. 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: May 3, 2023

Residential Tenancy Branch