



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MND MNDC MNSD MNR FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held by teleconference on April 17, 2023. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit and for unpaid rent;
- authorization to retain all or a portion of the Tenant's security deposit in satisfaction of the monetary order requested pursuant to section 38; and,
- to recover the cost of the filing fee.

The Landlords and the Tenants attended the hearing and provided affirmed testimony. The Tenants confirmed receipt of the Landlord's Notice of Dispute Resolution Proceeding and evidence packages. The Landlord confirmed receipt of the Tenants' evidence package.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matters

The Landlords initially applied for compensation in the amount of \$5,779.01 for damage to the rental unit, as well as \$1,500.0 for unpaid rent. The Landlords indicated that they hold a security deposit in the amount of \$700.00 on their application.

The Landlords did not upload a monetary worksheet, and only provided the following breakdown on their application, in terms of items claimed:

“Cleaning - \$300 Paint and labor - 2332.02 Flooring, baseboards - 236.99 Closet - \$30 Taps - \$250 Counter - 4500 Cabinets - 41500 Drywall, install and taping - \$640”

After reviewing these amounts, I note they add up to \$49,789.01. The Landlords acknowledged that these item totals are not correct and have since changed. The Landlords did not file an amendment to modify any amounts beyond what was noted on their application, as laid out above. Further, the Landlord only provided two receipts for the above noted items, neither of which match up with the amounts noted on the application. The Tenants appeared unsure as to what amounts were being sought as well. The Landlords did not provide a clearly articulated current amount owing at the hearing.

A significant amount of time was spent trying to understand the amounts and the different items. However, the Landlord was unable to provide the necessary clarity to explain the amounts and items included in her initial application for \$5,779.01. There was no monetary worksheet provided and the only totals were noted on the Landlords' application form, which the Landlords acknowledged were incorrect. The Tenant was also unsure which items were included in the Landlord's initial application. I find the confusing and unclear presentation of items and amounts is prejudicial to the respondent, and wasted significant time in the hearing. Given the above, I hereby dismiss the Landlord's application, in full, with leave to reapply, pursuant to section 59(2)(b) of the Act.

Given the Landlord's application against the Tenant's security and pet deposit is dismissed, with leave to reapply, I turn to the following portion of Policy Guideline #17:

C. RETURN OR RETENTION OF SECURITY DEPOSIT THROUGH DISPUTE RESOLUTION

The arbitrator will order the return of a security deposit, or any balance remaining on the deposit, less any deductions permitted under the Act, on:

- *a landlord's application to retain all or part of the security deposit;*
- or*
- *a tenant's application for the return of the deposit.*

unless the tenant's right to the return of the deposit has been extinguished under the Act. The arbitrator will order the return of the deposit or balance of the deposit, as applicable, whether or not the tenant has applied for dispute resolution for its return.

There is no evidence before me to show that the Tenants extinguished their right to the deposit. Since the application against the deposits has been dismissed as part of this hearing, I order the Landlords return the deposits, in full.

The Landlord must return the deposits, in full, and if they wish to pursue a claim for monetary compensation for damage to the rental unit, they must re-apply and pursue that claim separately. I encourage the Landlords to clearly itemize and calculate their claim, prior to filing it.

I issue a monetary order in favour of the Tenants for \$700.00

Conclusion

The Tenants are granted a monetary order pursuant to Section 67 in the amount of **\$700.00**. This order must be served on the Landlords. If the Landlords fail to comply with this order the Tenants may file the order in the Provincial Court (Small Claims) and be 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 *Residential Tenancy Act*.

Dated: May 1, 2023

Residential Tenancy Branch