



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **MNRL-S, MNDL-S, FFL**

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "**Act**") for:

- authorization to retain all or a portion of the security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- a monetary order for unpaid rent and for damage to the rental unit in the amount of \$2,025.42 pursuant to section 67;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend the hearing. The landlord was represented by an agent (CD).

CD testified that the landlord served the tenant with the notice of dispute resolution package and supporting documentary evidence via registered mail to the tenant's forwarding address on August 26, 2022 and April 11, 2023 respectively. She provided Canada Post tracking numbers confirming these mailing which is reproduced on the cover of this decision. The tenant is deemed served with these documents, five days after the landlord mailed them: section 90 of the Act.

Issues to be Decided

- 1) Did the tenant pay June 2022 rent?
- 2) Did the tenant clean the rental unit prior to leaving?
- 3) Did the tenant damage the walls of the rental unit?
- 4) Is the landlord entitled to recover its filing fee and retain the security deposit?

Evidence and Analysis

While I have considered the documentary evidence and the testimony of CD, not all details of her submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The parties entered into a written tenancy agreement starting June 1, 2020. Monthly rent is \$1,319.50 and is payable on the first of each month. The tenant paid the landlord a security deposit of \$650, which the landlord continues to hold in trust for the tenant.

1. Did the tenant pay June 2022 rent?

CD testified that the tenant did not pay any rent for June 2022. The landlord served the tenant with a ten-day notice to end tenancy for non payment of rent on June 6, and the tenant vacated the rental unit on June 29. The landlord has applied to recover \$1,275.42, representing a prorated amount of June rent.

The Act requires a tenant to pay rent when it is due: section 26. The tenant did not do this. I order the tenant to pay the landlord the amount it seeks for June's rent.

2. Did the tenant clean the rental unit prior to leaving?

CD testified that the tenant did not clean the rental unit at all prior vacating it. CD characterized the rental unit as "being in pretty bad shape", "a mess", and "a disaster". The tenants did not clean the stove, the refrigerator, the carpets, the walls, or the floor. The landlord submitted a move out condition inspection report which indicated that the entire rental unit required cleaning.

The tenant did not attend the move out inspection, and the landlord did not provide her with two opportunities for an inspection in the approved form. This causes the landlord's right to claim against the security deposit for damage to the rental unit to be extinguished: section 36 of the Act.

However, as the landlord claimed against the security deposit for unpaid rent, nothing turns on this extinguishment.

CD testified that a cleaner attended the rental unit and spent 10 hours cleaning. The landlord submitted an invoice from the cleaner for \$200, confirming the number of hours spent.

The tenant must leave the rental unit reasonably clean at the end of the tenancy: section 37 of the Act.

The tenant did not do this. I accept CD's undisputed testimony that the tenant did not clean the rental unit at all and that it was in poor condition. The landlord is entitled to recover the cost of cleaning the rental unit. I find that \$200 is a reasonable cost for cleaning the rental unit. I order the tenant to pay the landlord this amount.

3. Did the tenant damage the walls of the rental unit?

CD testified that the tenant did extensive damage to the walls of the rental unit. She stated that the walls and ceiling had numerous knife holes in them, and she believed the tenant was in the habit of throwing knives against the walls.

The landlord submitted several pictures of the rental unit walls showing hundreds of small holes that have been patched throughout the rental unit. The tenant must repair damage to the rental unit caused by their actions or neglect and is not the result of ordinary wear and tear: section 32 of the Act.

Knife holes in the wall and ceiling are not ordinary wear and tear. The tenant is responsible for the cost of their repairs.

The landlord hired a painter to patch all the holes and repaint the rental unit. It submitted an invoice for \$840 for the patching, sanding, and painting of the walls and ceiling of the rental unit. Given the extend of the damage to the walls and ceiling, CD stated that they needed to be repainted. I agree.

CD stated that the landlord only wants to recover \$550 of the amount paid to the painter, as the rental unit was not newly painted when the tenant moved in. She was unsure when it was last painted, but estimated it was a year before the start of the tenancy.

Residential Tenancy Branch Policy Guideline 40 sets the useful life of interior paint at four years. As such, the paint was roughly 75% through its useful life at the time the tenancy ended. The painting invoice submitted into evidence does not apportion the cost of painting and the cost of patching and sanding the holes in the walls and ceiling. In the circumstances, I find it reasonable to apportion 50% of the invoice to painting, and 50% to patching and sanding.

The landlord is entitled to recover the entire cost of the patching and sanding (\$420) and 25% of the cost of the painting (\$105).

4. Is the landlord entitled to recover its filing fee and retain the security deposit?

As the landlord has been successful in the application, it is entitled to recover the filing fee: section 72(1) of the Act.

The landlord may retain the security deposit in partial satisfaction of the monetary orders made above: section 72(2) of the Act.

Conclusion

Per sections 67 and 72 of the Act, I order that the tenant pay the landlord \$1,450.42, representing the following:

Description	Total
June rent (prorated)	\$1,275.42
Cleaning	\$200.00
Patching and sanding	\$420.00
Painting	\$105.00
Filing fee	\$100.00
Security deposit credit	-\$650.00
	\$1,450.42

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 2, 2023

Residential Tenancy Branch