



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNRL-S, MNDL-S, FFL

Introduction

The original hearing was convened by telephone conference call at 1:30 pm on January 23, 2023. That hearing was adjourned, and an interim decision was issued by me that same day. As a result, that interim decision should be read in conjunction with this decision. The reconvened hearing was attended by the Tenants and the Landlord. All testimony provided was affirmed. The parties were provided the opportunity to present their evidence orally and in written and documentary form, to call witnesses, and to make submissions at the hearing.

The parties were advised that interruptions and inappropriate behavior would not be permitted and could result in limitations on participation, such as being muted, or exclusion from the proceedings. The parties were asked to refrain from speaking over me and one another and to hold their questions and responses until it was their opportunity to speak. The parties were also advised that recordings of the proceedings are prohibited, and confirmed that they were not recording the proceedings.

Although I have reviewed all evidence and testimony before me that was accepted for consideration as set out above, I refer only to the relevant and determinative facts, evidence, and issues in this decision.

Preliminary Matters

Matter #1

The Landlord stated that they re-served the documents as ordered in my interim decision. The Tenants acknowledged receipt and raised no further concerns.

Matter #2

At the hearing the Landlord sought to remove \$123.33 from their claim, as they accidentally claimed this amount twice. The Landlord also sought to add additional claims previously missed. Although the Rules of Procedure allow me to amend the Application at the hearing, I find that the Landlord's request to add additional claims does not meet the criteria for doing so set out under rule 4.2. As a result, I did not permit the Landlord to add any additional claims or amounts. I did however permit them to reduce their previous claim amount by \$123.23 as this was in the best interest of all parties.

Issue(s) to be Decided

Is the Landlord entitled to recovery of unpaid or lost rent and/or utilities?

Is the Landlord entitled to compensation for damage caused to the rental unit by the Tenants, their pets, or their guests?

Is the Landlord entitled to compensation for monetary loss or other money owed?

Is the Landlord entitled to recovery of the filing fee?

Is the Landlord entitled to retention of the security deposit?

Background and Evidence

The Landlord stated that on March 1, 2022, the Tenant's gave notice to end their tenancy on March 31, 2022, which is less than one month's notice and one month earlier than the end date of the fixed term, which was July 31, 2022. The Tenants did not deny this. Copies of the tenancy agreement and the Tenants' written notice were provided. The Landlord stated that it took one and a half months to clean and repair the

rental unit after the Tenants vacated, and that it was not re-rented until June 1, 2022, at \$3,000.00 per month. The Landlord therefore sought \$2,890.00 in lost rent for April of 2022, which represents only one month of rent under the tenancy agreement. The Tenants agreed that they owed this amount.

The Landlord stated that the rental unit was not clean and was significantly damaged at the end of the tenancy, likening the state of the rental unit to that of a fraternity house. The Landlord pointed to a significant number of photographs showing damage and uncleanness, as well as invoices/receipts, and calculations of repair and cleaning costs. The Landlord sought \$9,262.61 for the cost of cleaning and repairing the rental unit.

Although the Tenants agreed that the rental unit was unclean and damaged at the end of the tenancy, they argued that they should not owe all of the amounts sought by the Landlord as the rental unit was not clean at the start of the tenancy, some items were already broken or improperly installed at the start of the tenancy, and because they returned to the rental unit as requested by the Landlord after the end of the tenancy to clean and paint. Despite the above, the Tenants agreed that they were responsible for the following:

- staining the carpets;
- failing to return parking permits and a mail key;
- rent for April 2022;
- damaging the door lock;
- damaging the washer and dryer;
- damaging the baseboard heater;
- failing to replace light bulbs;
- removing the laundry bifold door from its track;
- damaging parts of the fridge;
- a missing stair banister spindle; and
- a damaged door sweep.

The Landlord responded by stating that the photographs submitted were taken after the Tenants returned to paint and clean, and that the rental unit had to be repainted as the paint used by the Tenants was a different finish than the existing paint.

The parties agreed that move-in and move-out condition inspections and reports were completed as required, that the Tenants were given copies of the reports as required,

and that a \$1,445.00 security deposit was paid by the Tenants, the entirety of which is still held in trust by the Landlord.

Analysis

Although the Tenants stated that the rental unit was cleaned to a reasonable standard, and provided a copy of an email dated April 5, 2022, wherein the Landlord thanked them for some cleaning, I do not accept that the rental unit was left reasonably clean and undamaged, except for reasonable wear and tear, at the end of the tenancy as required by section 37(2)(a) of the Act. In an email dated April 8, 2022, the Landlord advised the Tenants that there was still a considerable amount of cleaning left to be done, that the paint used and supplied by the Tenants is not the same finish as the paint originally on the walls, and that significant repairs are still required to various items, including the washer and dryer. The documentary evidence submitted by the Landlord was significant and compelling. It is clear to me from the photographs supplied by the Landlord, that the rental unit was not only unclean at the end of the tenancy, but left in a state of disrepair, with

- stained and damaged carpets;
- damaged blinds;
- a dirty glass cooktop;
- a damaged baseboard heater;
- missing or damaged towel holders, doorknobs, light fixtures and bulbs, and outlet covers;
- damaged drywall;
- an uninstalled bifold closet door;
- a damaged banister spindle and door lock;
- A damaged toilet seat;
- damaged door sweeps; and
- damaged fridge parts.

Not only does the property appear not to have been properly cared for and cleaned by the Tenants during the tenancy, but it is also clear that any efforts made by the Tenants to return the property in the required state of cleanliness and repair were woefully insufficient. Although the Tenants provided proof that the carpets were cleaned, I am not satisfied that the cleaning was sufficient as the carpets remained stained and damaged with things such as burn marks.

I am satisfied by the testimony, spreadsheets, invoices, and receipts provided by the Landlord that they incurred financial losses of not less than \$12,152.61 because the Tenant's breached the Act and their tenancy agreement by ending their fixed-term tenancy early, and their failure to leave the rental unit in the state of cleanliness and repair required by section 37(2)(a) of the Act. I therefore grant the Landlord recovery of this amount. As the Landlord was successful in their claims, I also grant them recovery of the \$100.00 filing fee pursuant to section 72(1) of the Act.

Based on the testimony of the parties, I am satisfied that neither party extinguished their right to the return of the security deposit. I am also satisfied that Landlord complied with section 38(1) of the Act. As a result, I permit the Landlord to retain the Tenants' \$1,445.00 security deposit, plus \$12.74 in interest, towards the outstanding amounts owed, pursuant to section 72(2)(b) of the Act.

Conclusion

Pursuant to section 72(2)(b) of the Act, I permit the Landlord to retain the Tenants' \$1,445.00 security deposit, plus \$12.74 in interest.

Pursuant to section 67 of the Act, I grant the Landlord a monetary order in the amount of **\$10,794.87** for the remaining balance owed, and I order the Tenants to pay this amount to the Landlord. The Landlord is provided with this order in the above terms and the Tenants should be served with this order as soon as possible. Should the Tenants fail to comply with this order, it may be filed in the Small Claims Division of the Provincial 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: June 14, 2023

Residential Tenancy Branch