



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNDL-S, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Landlords on August 11, 2022, under the *Residential Tenancy Act* (the Act), seeking:

- Compensation for damage cause to the rental unit by the Tenant, their pets, or their guests;
- Retention of the security deposit; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call at 1:30 pm on May 8, 2023, and was attended by the Landlords and the Tenant. All testimony provided was affirmed. As the Tenant acknowledged service of the Notice of Dispute Resolution Proceeding (NODRP), the hearing proceeded as scheduled. 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

Although the Tenant acknowledged receipt of the Landlords' documentary evidence, the Landlords denied receipt of any evidence from the Tenant. The Tenant stated that their documentary evidence was emailed to the Landlords on approximately May 2, 2023, but could not provide me with the email address used for the Landlords, and did not submit proof that the email was sent. Further to this, email is only an approved method of service if the parties have pre-agreed to service by email at specified email addresses, which is not the case here. As a result, I have excluded the documentary evidence before me from the Tenant as I am not satisfied it was served on the Landlords as required.

Issue(s) to be Decided

Are the Landlords entitled to compensation for damage cause to the rental unit by the Tenant, their pets, or their guests?

Are the Landlords entitled to retain the security deposit?

Are the Landlords entitled to recovery of the filing fee?

Background and Evidence

The parties agreed that the tenancy ended on May 31, 2022, that the Landlords received the Tenant's forwarding address in writing on August 10, 2022, that move-in and move-out condition inspections and reports were completed with the Landlords and Tenant as required by the Act and regulations, that copies of the reports were provided to the Tenant as required, and that the Landlords still hold the Tenant's \$850.00 security deposit in trust.

The Landlords sought recovery of \$200.00 for a noise violation fine issued by the strata against the rental unit. The Landlords stated that the Tenant signed a form k and was aware of strata rules regarding noise, and received a formal warning about noise before issuance of the fine. The Tenant denied responsibility for this fine, stating that they are a music producer and made it clear to the Landlords before renting the unit that they make noise at night and were told by the Landlords this would not be an issue as the unit was soundproof. The Tenant stated that they are upset that the rental unit was not

soundproof as promised, were unaware until the formal warning that they needed to be quiet by 10:30 pm, and that they turned the music down by 10:30 pm every night thereafter.

The Landlords stated that the Tenant failed to leave the rental unit reasonably clean and undamaged, except for reasonable wear and tear, at the end of the tenancy as required. The Landlords stated that they needed to pay a cleaner for 6 hours of cleaning at a cost of \$210.00, had to give the new occupants compensation in the amount of \$200.00 because the Tenant had ripped wallpaper and left gouges in the walls, and had to have the stovetop refinished at a cost of \$495.00 as it was significantly scratched by being cleaned with abrasive materials. The Landlords therefore sought recovery of these amounts from the Tenant.

The Tenant acknowledged that they damaged the stovetop when frantically cleaning it but denied responsibility for the costs to refinish it as the Landlords cut their move-out time short by several hours, and agreed that they would not be responsible for this cost, which the Landlords denied. The Tenant denied any knowledge of or responsibility for the wall damage and associated costs, as well as cleaning costs as they stated that they had cleaned from 6:00 am to 10:00 am and the rental unit was quite clean.

Analysis

Based on the documentary evidence before me for consideration from the Landlords and the affirmed testimony of the parties at the hearing, I am satisfied that the Landlords sought retention of the Tenant's security deposit in compliance with section 38(1) of the Act, and that neither party extinguished their rights in relation to the security deposit.

Despite the Tenant's testimony that the rental unit was left reasonably clean, and their denial of responsibility for wall and stovetop damage, I find that the Tenant is responsible for the \$495.00 sought by the Landlords for stovetop refinishing, the \$210.00 in cleaning costs, and the \$200.00 in compensation paid to the new occupants of the rental unit due to the damaged state of the walls. The condition inspection reports and photographs satisfy me that the rental unit was not left reasonably clean and undamaged at the end of the tenancy, except for pre-existing damage and reasonable wear and tear, as required by section 37(2)(a) of the Act. I am not satisfied that the Landlords waived the Tenant's responsibility for these damages as claimed by the Tenant. The invoices, bank records, and quotes submitted by the Landlords also satisfy me that they incurred the claimed costs to bring the rental unit up to the standard

required after the Tenant's breach of section 37(2)(a) of the Act, and that they mitigated their losses by having these services completed at a reasonably economic rate and having the stovetop refinished rather than replaced. As a result, I grant the Landlords recovery of the \$905.00 sought for cleaning costs and damage, pursuant to section 7 of the Act.

However, I dismiss the Landlords' claim for recovery of \$200.00 in strata fines, as I find that these fines would need to have been issued to the Tenant, in their own name, to be enforceable against them, which they were not.

As the Landlords were successful in most of their claims, I grant them recovery of the \$100.00 filing fee pursuant to section 72(1) of the Act. Pursuant to section 72(2)(b) of the Act, I also grant the Landlords authorization to withhold the Tenant's \$850.00 security deposit, plus \$7.19 in interest, towards the above owed amounts. I therefore grant the Landlords a monetary order in the amount of \$147.81 for the balance owed, and I order the Tenant to pay this amount to the Landlords.

Conclusion

I grant the Landlords authorization to withhold the Tenant's \$850.00 security deposit, plus \$7.19 in interest, towards the \$1,005.00 owed for damage, cleaning costs, and recovery of the filing fee.

Pursuant to section 67 of the Act, I grant the Landlords a monetary order in the amount of **\$147.18** for the remaining balance owed. The Landlords are provided with this order in the above terms and the Tenant must be served with this order as soon as possible. Should the Tenant 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 7, 2023

Residential Tenancy Branch