



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

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

Introduction and Preliminary Matters

On September 29, 2022, the Landlords made an Application for Dispute Resolution seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “*Act*”), seeking to apply the security deposit towards this debt pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

This Application was originally set down for a hearing on July 20, 2023, at 1:30 PM and then was subsequently adjourned for reasons set forth in the Interim Decision dated July 20, 2023. This Application was then set down for a final, reconvened hearing on August 14, 2023, at 11:00 AM.

Both Landlords attended the final, reconvened hearing; however, the Tenant did not attend at any point during the 36-minute teleconference. At the outset of the hearing, I informed the Landlords that recording of the hearing was prohibited, and they were reminded to refrain from doing so. As well, all parties in attendance provided a solemn affirmation.

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the hearing in the absence of a party and may make a Decision or dismiss the Application, with or without leave to re-apply.

I dialed into the teleconference at 11:00 AM and monitored the teleconference until 11:36 AM. Only the Landlords dialed into the teleconference during this time. I confirmed that the correct call-in numbers and participant codes had been provided in the

Notice of Hearing. I also confirmed from the teleconference system that the Landlords were the only other people who had called into this teleconference.

At the original hearing, there was a concern about service of the Landlords' evidence, and the hearing was adjourned to allow more time for the Tenant to review this late evidence and possibly respond to it. The Tenant was also provided with an opportunity to submit their own documentary evidence. As I am now satisfied that the Tenant has had a fair opportunity to review and respond to the Landlords' evidence, all of the Landlords' evidence will be accepted and considered when rendering this Decision.

The Tenant did not submit any documentary evidence for consideration on this file.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Are the Landlords entitled to a Monetary Order for Compensation?
- Are the Landlords entitled to apply the security deposit towards this debt?
- Are the Landlords entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

At the final, reconvened hearing, the Landlords advised that tenancy started on December 15, 2021, and that the tenancy ended when the Tenant gave up vacant possession of the rental unit on May 31, 2022. Rent was established at an amount of \$1,750.00 per month and was due on the first day of each month. A security deposit of \$875.00 was also paid. A copy of the signed tenancy agreement was submitted as documentary evidence for consideration.

Landlord L.K. advised that a move-in inspection report was conducted with the Tenant on December 21, 2021, despite the report indicating this was completed on December 21, 2022. She referenced a signed copy of the report submitted as documentary evidence.

She then submitted that a move-out inspection report was not conducted with the Tenant as the Tenant abandoned the rental unit. As well, she indicated that the Tenant never provided a forwarding address in writing.

The Landlords advised that they were seeking compensation in the amounts of **\$15.60**, **\$4.00**, **\$5.00**, **\$27.60**, **\$20.40**, **\$12.00**, and **\$6.20** for the cost to dispose of refuse and debris that the Tenant left behind in the rental unit. They referenced pictures submitted of the condition the rental unit was left in. They also cited the receipts submitted to support their claims of costs.

The Landlords then advised that they were seeking compensation in the amount of **\$78.98** for the cost of an extension cord that was provided at the start of the tenancy. They confirmed that they did not have any proof that this extension cord was provided originally. However, they testified that their addendum to the tenancy agreement indicated that a lawn mover and a weed whacker were provided, and they stated that these could not be operated without an electrical cord. They referenced an invoice submitted as documentary evidence to support their submission, but this receipt contained another item that was not noted on the Landlords' Monetary Order Worksheet. The cost of the extension cord was actually \$49.50 plus tax.

The Landlords advised that they were seeking compensation in the amount of **\$28.50** for the cost of replacing burnt out lightbulbs at the end of the tenancy. They confirmed that all of the bulbs were in working condition at the start of the tenancy, and that there were many bulbs that were burnt out at the end of the tenancy. However, they were unsure how many had to be replaced specifically. They referenced an invoice submitted as documentary evidence to support this claim, but this receipt contained another item that was not noted on the Landlords' Monetary Order Worksheet. The cost of the lightbulbs was actually \$15.01 plus tax.

The Landlords advised that they were seeking compensation in the amount of **\$41.56** for the cost of repairing and patching holes in the drywall caused by the Tenant. They referenced pictures submitted of the condition the rental unit was left in. As well, they cited an invoice submitted as documentary evidence to support this claim.

The Landlords advised that they were seeking compensation in the amounts of **\$77.23** and **\$23.69** for the cost of gas and electricity for June 2022 because they were unable to rent the unit until July 1, 2022, due to the manner with which the Tenant left the rental unit in. They referenced invoices submitted as documentary evidence to support their claims for compensation.

Finally, the Landlords advised that they were seeking compensation in the amount of **\$1,375.00** for the labour costs to clean, repair, and paint the rental unit to return it to a re-rentable state. They referenced an outline submitted as documentary evidence to demonstrate a breakdown of all of their time spent, totalling 55 hours and charged at a rate of \$25.00 per hour.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 23 of the *Act* states that the Landlords and Tenant must inspect the condition of the rental unit together on the day the Tenant is entitled to possession of the rental unit or on another mutually agreed upon day.

Section 35 of the *Act* states that the Landlords and Tenant must inspect the condition of the rental unit together before a new tenant begins to occupy the rental unit, after the day the Tenant ceases to occupy the rental unit, or on another mutually agreed upon day. As well, the Landlords must offer at least two opportunities for the Tenant to attend the move-out inspection.

Section 21 of the *Residential Tenancy Regulation* (the "*Regulation*") outlines that the condition inspection report is evidence of the state of repair and condition of the rental unit on the date of the inspection, unless either the Landlords or the Tenant have a preponderance of evidence to the contrary.

Sections 24(2) and 36(2) of the *Act* state that the right of the Landlords to claim against a security deposit or pet damage deposit is extinguished if the Landlords do not complete the condition inspection reports in accordance with the *Act*.

Section 32 of the *Act* requires that the Landlords provide and maintain a rental unit that complies with the health, housing and safety standards required by law and must make it suitable for occupation. As well, the Tenant must repair any damage to the rental unit that is caused by their negligence.

Section 67 of the *Act* allows a Monetary Order to be awarded for damage or loss when a party does not comply with the *Act*.

With respect to the inspection reports, as a move-in inspection report was completed by the Landlords with the Tenant, and as the Tenant abandoned the rental unit making it impossible to conduct a move-out inspection report with them attending, I am satisfied that the Landlords complied with the requirements of the *Act* in completing these reports. As such, I find that the Landlords have not extinguished the right to claim against the deposit.

Section 38 of the *Act* outlines how the Landlords must deal with the security deposit and pet damage deposit at the end of the tenancy. With respect to the Landlords' claim against the Tenant's security deposit, Section 38(1) of the *Act* requires the Landlords, within 15 days of the end of the tenancy or the date on which the Landlords receive the Tenant's forwarding address in writing, to either return the deposit in full or file an Application for Dispute Resolution seeking an Order allowing the Landlords to retain the deposit. If the Landlords fail to comply with Section 38(1), then the Landlords may not make a claim against the deposit, and the Landlords must pay double the deposit to the Tenant, pursuant to Section 38(6) of the *Act*.

Based on the consistent and undisputed evidence before me, given that a forwarding address in writing was never provided by the Tenant, I am satisfied that Section 38 of the *Act* was never initiated and thus, the doubling provisions do not apply to the security deposit in this instance.

With respect to the Landlords' claims, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, "It is up to the party who is claiming compensation to provide evidence to establish that compensation is due", that "the party who suffered the damage or loss can prove the amount of or value of the damage or loss", and that "the value of the damage or loss is established by the evidence provided."

As noted above, the purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. When establishing if monetary compensation is warranted, it is up to the party claiming compensation to provide evidence to establish that compensation is owed. In essence, to determine whether compensation is due, the following four-part test is applied:

- Did the Tenant fail to comply with the *Act*, regulation, or tenancy agreement?
- Did the loss or damage result from this non-compliance?
- Did the Landlords prove the amount of or value of the damage or loss?
- Did the Landlords act reasonably to minimize that damage or loss?

With respect to the Landlords' claims for compensation in the amounts of \$15.60, \$4.00, \$5.00, \$27.60, \$20.40, \$12.00, and \$6.20 for the costs of refuse disposal, I am satisfied from the consistent and undisputed evidence that the Tenant left a substantial amount of debris and refuse behind at the end of the tenancy. As such, I grant the Landlords a monetary award in the total amount of **\$90.80** to satisfy this claim.

Regarding the Landlords' claim for compensation in the amount of \$78.98 for the cost of an extension cord, when reviewing the addendum to the tenancy agreement, I find it important to note that only a lawn mower is indicated as being provided, contrary to their testimony. Despite this, and despite there being no documentary evidence that supports a claim that an extension cord was provided to the Tenant at the beginning of the tenancy, I accept the Landlords' solemnly affirmed testimony that this was provided to the Tenant and was not returned at the end of the tenancy. As such, and as the invoice provided indicates that the extension cord was \$49.50 plus tax, I grant the Landlords a monetary award in the total amount of **\$55.44** to remedy this matter.

With respect to the Landlords' claim for compensation in the amount of \$28.50 to replace burnt out lightbulbs, I note that the Landlords provided little evidence of how many lights were burnt out and were in need of replacing. However, when the evidence is reviewed regarding the condition the rental unit was left, it would not be unreasonable to conclude that there were some lightbulbs that required replacement. As such, and as the invoice provided indicates that the bulbs were \$15.01 plus tax, I grant the Landlords a monetary award in the total amount of **\$16.81** to rectify this issue.

Regarding the Landlords' claim for compensation in the amount of \$41.56 for the cost of repairing and patching holes in the drywall, I am satisfied from the consistent and undisputed evidence that the Tenant caused damage to the rental unit that required

being repaired. As such, I grant the Landlords a monetary award in the total amount of **\$41.56** to satisfy this claim.

With respect to the Landlords' claims for compensation in the amounts of \$77.23 and \$23.69 for the costs of gas and electricity for June 2022, I am satisfied from the consistent and undisputed evidence that the Tenant did not leave the rental unit in a re-rentable state at the end of the tenancy, and that the Landlords were unable to re-rent the unit because of it. As such, I grant the Landlords a monetary award in the total amount of **\$100.92** to remedy these claims.

Finally, regarding the Landlords' claim compensation in the amount of \$1,375.00 for their labour costs to clean, repair, and paint the rental unit, again, I am satisfied from the consistent and undisputed evidence that the Tenant did not leave the rental unit in a re-rentable state at the end of the tenancy, and that the Landlords were required to put in efforts to have this corrected. As such, I grant the Landlords a monetary award in the amount of **\$1,375.00** to satisfy this matter.

As the Landlords were partially successful in these claims, I find that the Landlords are entitled to recover the \$100.00 filing fee paid for this Application.

Pursuant to Sections 38, 67, and 72 of the *Act*, I grant the Landlords a Monetary Order as follows:

Calculation of Monetary Award Payable by the Tenant to the Landlords

Refuse disposal	\$90.80
Extension cord replacement	\$55.44
Lightbulb replacement	\$16.81
Drywall repair	\$41.56
Gas and electricity	\$100.92
Labour	\$1,375.00
Filing fee	\$100.00
Security deposit	-\$875.00
TOTAL MONETARY AWARD	\$ 905.53

Conclusion

The Landlords are provided with a Monetary Order in the amount of **\$905.53** 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, this Order 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 *Residential Tenancy Act*.

Dated: August 16, 2023

Residential Tenancy Branch