



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNDCT / MNDL-S, MNDCL-S, FFL

Introduction

This hearing dealt with two applications pursuant to the *Residential Tenancy Act* (the Act). The Landlords' application 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 damage to the rental unit and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement in the amount of \$2,227.31 pursuant to section 67; and
- authorization to recover the filing fee for this application from the Tenants pursuant to section 72.

And the Tenants' application for a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement in the amount of \$5,000 pursuant to section 67.

All parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Preliminary Issue – Removal of Party from Application

On their application, the Tenants named their daughter, DL, as a party. The Landlords noted that DL was not a party to the tenancy agreement. The Tenants acknowledged this. As such, I do not find that DL has standing under the Act to make an application against the Landlords. With the consent of the parties, I amend the Tenants' application to remove DL as a party.

Service

At the outset of the hearing, landlord MB stated that he was unaware that the Tenants had made an application against the Landlords, and that they had not been served with any of the Tenants documentary evidence (either in support of their own application, or in

response to the Landlords application). Tenant JB confirmed that the Landlords had not been served with any of the Tenants' materials.

The Residential Tenancy Branch (RTB) Rule of Procedure 3.1 requires an applicant to serve a respondent with a copy of their notice of dispute resolution proceeding package and supporting documentary evidence. The Tenants did not do this. Accordingly, the Landlords were unable to adequately prepare their response to the Tenants' application. It would therefore be unfair to them to allow the Tenants' application to proceed. I dismiss the Tenants' application, with leave to reapply.

The Tenants confirmed their understanding of this. They also acknowledged that they received the Landlords' notice of dispute resolution proceeding package and supporting documentary evidence. I find that they have been served in accordance with the Act.

Issues to be Decided

Are the Landlords entitled to:

- a monetary order for \$2,227.31;
- recover the filing fee; and
- retain the security deposit and the pet damage deposit in satisfaction/partial satisfaction of the monetary orders made?

Evidence and Analysis

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

The parties entered into a written, month to month tenancy agreement starting May 1, 2022. Monthly rent was \$3,300 plus utilities. The Tenants paid the Landlords a security deposit of \$1,650, which the Landlords continues to hold in trust for the Tenants. The tenancy agreement required the Tenants to pay a pet damage deposit of \$1,650 as well, but the parties agree that the Tenants never paid this amount.

The Tenants vacated the rental unit on November 1, 2022.

The parties conducted a move in condition inspection at the start of the tenancy, following which the Landlords emailed a signed copy of the move in inspection report to

the Tenants. The Tenants testified that they refused to sign this copy, as they disagreed with its contents.

The parties conducted a move out condition inspection on November 1, 2022. The Landlords completed a move out condition inspection report, but never sent it to the Tenants, as the Tenants never returned the signed moved in report to them.

1. Utilities

MB testified that the Tenants failed to pay BC Hydro invoices from July 2, 2022. The Landlords provided invoices from BC Hydro showing that the outstanding balance due on the BC Hydro account is \$964.21.

JB testified that the Landlords arranged for a withdrawal to be made from their bank account in the amount of 316.92 without their permission. She alleged that landlord AK, who works for a bank, inappropriately accessed her banking information, and set up an automatic transfer to pay the utilities. The Landlords deny improperly accessing the Tenants' bank account. JB testified that the Tenants provided them with the necessary information and acknowledged that a withdrawal of \$316.92 was made from the Tenants' account by BC Hydro, which was applied to their first BC Hydro bill.

In any event, JB stated that she was never provided with BC Hydro invoices during the tenancy, so she did not pay them. She acknowledges that the Tenants are responsible for paying them.

Based on this, and the BC Hydro invoices submitted into evidence, I find that the Tenants have failed to pay \$964.21 in utilities bills they were required to pay under the tenancy agreement. As such, I order them to pay the Landlords this amount.

I make no findings as to whether either of the Landlords improperly access the Tenants' banking information, as it is not necessary for me to do in order to resolve this portion of the application.

2. Condition of the Rental Unit

MB testified that the Tenants failed to adequately clean the rental unit at the end of the tenancy. The Landlords submitted a number of photographs taken at the end of the tenancy which that the kitchen cabinets (interior and exterior), the microwave, two windowsills, and the interior of the freezer had not been cleaned. Additionally, the

photographs showed a “ladies” sticker affixed to the door of a bathroom, as well as several decals affixed to the interior of a bathtub. The Landlords were able to remove the decals. MB testified that it took one hour to do so and seeks to recover \$15.65 (the hourly minimum wage) in compensation.

MB testified that the Landlords hired a cleaner to clean the rental unit after the Tenants vacate at a cost of \$808.50. The landlord did not submit a copy of an invoice supporting this amount.

MB also testified that the sticker on the bathroom door could not be removed without damaging the door. As a result, he argued, the Landlords will need to replace the door at a cost of \$350. They submitted a screenshot of a website showing a similar door costing the amount claimed.

Finally, MB testified that the Tenants installed accordion doors in the rental unit without their permission during the tenancy. He testified that it took the Landlords three hours to remove it. They seek to recover \$46.95 (3 hours x \$15.65) as compensation for their time.

JB testified that she cleaned the rental unit prior to vacating. She testified that the “ladies” sticker was on the bathroom door when the Tenants moved in, so they should not be responsible for the cost of replacing the door. She also denied installing accordion doors during the tenancy and argued that the Tenants should not therefore bear the cost of their removal.

JB agreed that the Tenants put stickers in the bathtub but argued that it should not have taken an hour to remove them.

Section 32 of the Act requires tenants to leave the rental unit reasonable clean and undamaged at the end of the tenancy. Based on the photographs submitted into evidence, I find that the Tenants did not adequately clean the kitchen cabinets (interior and exterior), the microwave, two windowsills, and the interior of the freezer. However, the landlord did not submit:

- photographs of other parts of the rental unit were submitted into evidence;
- the move out condition inspection report; and
- an invoice from a cleaner showing the cleaning done at the end of the tenancy.

Without such corroborative evidence, I cannot say that it is more likely than not that the Tenants failed to clean any other part of the rental unit prior to leaving. As such, I

cannot find that the Landlords are entitled to the amount claimed. Additionally, as they have failed to submit an invoice for the move-out cleaning, the Landlords have failed to establish that they have suffered the loss claimed.

In the circumstances, I find that nominal damages of \$75 are appropriate compensation for the cost of cleaning those areas specified above.

Based on the evidence submitted, I cannot find it is more likely than not that the Tenants placed the “ladies” sticker on the bathroom door, or that they installed an accordion door in the rental unit. There is nothing in evidence to corroborate the Landlords’ claims that the Tenants are responsible for this damage. As such, I dismiss the Landlords’ application for compensation in connection with these alleged breaches of the Act.

I accept that the Tenants placed stickers inside the bathtub and did not remove them at the end of the tenancy. This amounts to a breach of section 32 of the Act. I do not find one hour to be an unreasonable amount of time to remove all traces of the adhesive from the bathtub. \$15.65 is a reasonable amount for the Landlords to claim in connection with removing the stickers. As such, I order the Tenants to pay the Landlords that amount.

Pursuant to section 72(1) of the Act, as the Landlords have been successful in the application, they may recover the filing fee from the Tenants.

Conclusion

Pursuant to sections 67 and 72 of the Act, I order that the Tenants pay the Landlords \$1,214.86, representing the following:

Description	Total
BC Hydro	\$964.21
Nominal damages (cleaning)	\$75.00
Sticker removal	\$75.65
Filing Fee	\$100.00
	\$1,214.86

Per section 72(2), the landlord may deduct this amount from the security deposit they currently hold in trust. They must return the balance of the security deposit (\$435.14) to

the Tenants. I have attached a monetary order in the Tenants' favour for this amount, in the event the Landlords fail to do this.

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 8, 2023

Residential Tenancy Branch