



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNRL-S, MNDL-S, FFL

Introduction

The Landlord filed an Application for Dispute Resolution on December 7, 2022 seeking compensation for utility amounts, and damage to the rental unit. Additionally, they seek reimbursement of the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on September 19, 2023.

The Landlord attended the conference call hearing; the Tenant did not attend. I explained the hearing process and the Landlord had the opportunity to ask questions and present oral testimony during the hearing.

Preliminary Matter – Landlord’s Notice of Dispute Resolution Proceeding and evidence

At the start of the hearing, I confirmed with the Landlord that they served the Notice of Dispute Resolution Proceeding to the Tenant as required. The Landlord advised they served the document by sending it to an email address the Tenant provided. An adjudicator at the Residential Tenancy Branch approved this method of service – as substituted service – by a written decision dated January 3, 2023. The Landlord provided with the Notice of Dispute Resolution Proceeding attached on January 8, 2023.

The Landlord’s email to the Tenant in January 2023 included the Landlord’s evidence they prepared for this hearing.

I find the Landlord served the Tenant with the Notice of Dispute Resolution Proceeding and their evidence as required. The Landlord served the material evidence as per s. 89(1)(f) of the *Act*. Because the Landlord served the Tenant as required, I proceeded with the hearing in the Tenant’s absence.

Issues to be Decided

Is the Landlord entitled to compensation for utilities amounts owing, pursuant to s. 67 of the *Act*?

Is the Landlord entitled to compensation for damages to the rental unit, pursuant to s. 67 of the *Act*?

Is the Landlord entitled to reimbursement of the Application filing fee, pursuant to s. 72 of the *Act*?

Background and Evidence

The Landlord provided a copy of the tenancy agreement in their evidence. The tenancy started on February 1, 2017 as stated in that document. The rent amount was \$1,350. The Tenant paid a security deposit of \$700. The copy of the tenancy agreement in the evidence bears the Tenant's signature of January 10, 2017.

The agreement also sets out that water billing is to be paid by the Tenant at an annual flat rate, "in March, \$400 Landlord will pay first, Tenant to be [reimburse] later".

At the start of the tenancy, the Landlord completed a joint inspection of the rental unit with the Tenant on February 1, 2017. This is recorded and the Tenant signed that record in the Condition Inspection Report on that date. The Landlord on their own, without the Tenant present, completed the report again at the end of the tenancy, recording their observations of the state of the rental unit on November 29, 2022.

The Landlord provided dates for inspection of November 23, 24, and 29; however, the Tenant did not attend on any of those dates after the Tenant moved out from the rental unit on November 20. According to the Landlord, the Tenant refused to sign the Condition Inspection Report and did not provide a forwarding address to the Landlord at the end of the tenancy.

After the tenancy had ended, the Landlord provided a letter to the Landlord dated December 3, 2022. This set out all the points about the end of the tenancy and the Landlord's attempts to schedule a joint inspection at the end of the tenancy.

In this same letter, the Landlord provided a copy of the final utilities bill to the Tenant. This the municipality "Annual Utility Bill", as provided for in the tenancy agreement. The yearly amount of \$557 is set out on the bill. Because the Tenant moved out at end of the 11th calendar month, the Landlord calculated 11 months of that water utility, from \$557 for 12 months' duration, to \$510 for 11 months' duration.

The Landlord also notified the Tenant that they had painted the kitchen cabinets in burgundy red, without the Landlord's approval. The Landlord described this "strong drastic colour", with the original colour being white. The following tenant painted the cabinets for materials \$75 and \$150 labour. The Landlord explained to the Tenant that this was an exceptionally lower price than the Tenant would have to pay to hire a painter to change the colour back to the original.

In sum, the Landlord claims \$510 for the utilities amount owing, and \$225 for the cost to them of paying the new tenant to paint the cabinets.

Analysis

The Landlord explained, and showed through evidence, that the Tenant left the final amount for utilities unpaid. The Tenant vacated the rental unit before paying this amount. I grant this amount for utilities -- \$510 -- in full to the Landlord.

To be successful in a claim for compensation for damage or loss the Applicant has the burden to provide enough evidence to establish the following four points:

- That a damage or loss exists;
- That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
- The value of the damage or loss; **and**
- Steps taken, if any, to mitigate the damage or loss.

I find as fact that the Tenant did not leave the rental unit in a state of cleanliness that was reasonable. I find the change of cabinet colour was a significant imposition to the Landlord and it was an unreasonable expense for the Landlord to rectify that problem that the Tenant did not properly attend to by the end of the tenancy. This was not reasonable wear and tear over the course of this tenancy. I find the Landlord has established the value for the expense to them of paying the new tenants for this service. I grant the amount of \$225 in full to the Landlord.

In total, I find the Landlord has established a claim of \$735. This is based on a review of the available evidence and the Landlord's description of the matter in the hearing.

The *Act* s. 72(2) gives an arbitrator the authority to make a deduction from the security deposit and/or pet damage deposit held by a landlord. The Landlord here has established a claim of \$735. After setting off the security deposit of \$700, there is a balance of \$35. I am authorizing the Landlord to keep the security deposit amount and award the balance of \$35.

Because the Landlord was minimally successful in their claim, I grant \$100 reimbursement for the Application filing fee

Conclusion

Pursuant to s. 67 and 72 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$135 for compensation set out above and the recovery of the filing fee for this hearing application. I provide this Monetary Order in the above terms and the Landlord must serve the Monetary Order to the Tenant as soon as possible. Should the Tenant fail to comply with the Monetary Order, the Landlord may file it in the Small Claims Division of the Provincial Court where it will be 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 s. 9.1(1) of the *Act*.

Dated: September 19, 2023

Residential Tenancy Branch