



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

INTRODUCTION

Both parties applied for dispute resolution under the *Residential Tenancy Act* (the Act).

The landlord applied for a reduced monetary claim of \$1,354 for damages and unpaid utilities, to retain the tenant's security deposit of \$1,200 and to recover the filing fee. The tenant applied for a monetary claim of \$11,349.88 for compensation under the Act, the return of their security deposit and to recover the filing fee.

Those listed on the cover page of this decision attended the hearing and were affirmed. Words utilizing the singular shall also include the plural and vice versa where the context requires.

SERVICE

Apart from the USB drive, which the landlord stated they could not access, both parties confirmed service of the Proceeding Package and documentary evidence and that they had the opportunity to review same before the hearing.

PRELIMINARY MATTER

All other parties except for KT were removed from the landlord's application as they were not served. Both parties confirmed their respective email addresses during the hearing. As a result, this decision will be emailed to both parties.

ISSUES TO BE DECIDED

Has either party proven a monetary claim under the Act?

What should happen to the tenant's security deposit?

Is either party entitled to the filing fee?

BACKGROUND AND EVIDENCE

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on April 15, 2022 and converted to a month-to-month tenancy after April of 2022. The monthly rent was \$2,400 per month and due on the first day of each month. A security deposit of \$1,200 was paid by the tenant at the start of the tenancy. The parties confirmed the rental unit was vacated on February 5, 2023.

For each claim below, an L will be used to identify the landlord's claim and a T will be used to identify the tenant's claim.

Landlord's claim

The landlord's monetary claim of \$1,354, which totals \$1,353 due what I find to be an adding error is comprised as follows:

- L1. Cleaned soiled carpet, \$233.05
- L2. Suite cleaning, \$225
- L3. July 16-November 15, 2022 unpaid utilities, \$315.05
- L4. November 16-February 5, 2023 unpaid utilities, \$158.20
- L5. Unpaid rent for February 1-5, 2023 (inclusive), \$425
- L6. *Less \$3 interest on security deposit*

Regarding item L1, the landlord provided a photo showing a clearly visible dirty carpet. The photo is dated February 5, 2023, the move-out date. The landlord also submitted a copy of the carpet cleaning invoice in the amount claimed, which was paid by Visa in the amount of \$233.05. The carpet cleaning invoice is dated February 17, 2023.

The tenant's response to item L1 was that they found out the unit was hazardous and were advised to wear personal protective equipment (PPE) and based on an air quality test the tenant arranged and paid for, which will be addressed later in this decision for the tenant's claim, the tenant claims they had to leave the rental unit.

Regarding item L2, the landlord has claimed \$225 for the cost to clean the rental unit, which the landlord stated was left in a dirty condition. The landlord presented several photos dated February 5, 2023, which show mould in the inside of the window tracks, a dirty stove, very dirty carpet, dirty flooring, dirty baseboard heater, dirty oven door, dirty

sink, dirty counter, and several leftover filled garbage bags. The landlord also presented a document that supports the landlord's testimony that they did the cleaning of the rental unit. The hours worked indicate 5 hours on February 6, 2023 from 11-4 and 4 hours on February 7, 2023 from 10-2 and that the total of 9 hours was charged at \$25 per hour for a total of \$225.

The tenant's response to item L2 was that they did not want to risk their health and moved out quickly due to the air quality testing.

Regarding items L3 and L4, the parties reached a mutual agreement under section 63 of the Act as follows:

- A. Item L3 - \$273.24 to be paid by the tenant for unpaid utilities
- B. Item L4 - \$158.20 to be paid by the tenant for unpaid utilities

Given the above, items L3 and L4 will be accounted for later in my analysis below.

Regarding item L5, the landlord has claimed \$425 for 5 days of unpaid rent for February 2023, as the tenant did not vacate until February 5, 2023 and the tenant confirmed that no rent was paid for February 2023.

Tenant's claim

The tenant's monetary claim of \$11,349.88 is comprised as follows:

- T1. Air quality/mould test, \$640.50
- T2. PPE for move out \$69.22
- T3. Paid utilities for heat, \$790.16
- T4. Yardwork, \$300
- T5. Rent paid for unsafe unit, \$7,200
- T6. Mould damage to furniture, \$600
- T7. Damaged furniture, \$450
- T8. Damage deposit, \$1,200
- T9. Filing fee, \$100

Regarding item T1, the tenant has claimed \$640.50 to be reimbursed by the landlord for the tenant arranging for and paying for an air quality test (Air Test). The tenant was asked to present evidence that supported the need for an Air Test. The tenant was unable to recall the date of any of the photos. When questioned about the mould

showing in the inside track of the window, the tenant claims they cleaned the window tracks “immediately before” the photo was taken, which is not consistent with how mould grows/forms.

Based on the above, I found the tenant not credible. In addition, given that the lack of documentation to support that tenant cleaned the window tracks regularly and complained about the air quality to the landlord in writing and that they gave the landlord a reasonable opportunity to respond to a written request, I dismissed this item during the hearing due to lack of credibility, which I will address further below.

As all other items, except yardwork, relied on the tenant proving that the mould was the landlord’s fault, which they failed to do, I dismiss the remainder of the tenant’s application without leave to reapply, as I find it is frivolous, which I will address further below.

Regarding yardwork, item T4, the tenant provided no breakdown of how they arrived at the amount of \$300. The tenant stated during the hearing it was for 20 hours at \$15 per hour and the tenant was relying on a photo, which I find shows the tenant caused the yard issues and not the landlord as the yard appeared to be covered in junk.

ANALYSIS

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Has either party proven a monetary claim under the Act?

Regarding the tenant’s claim, I find the tenant was not credible. To claim that mould grew immediately after cleaning the window tracks, is not only unreasonable but has no ring of truth to it. Furthermore, RTB Policy Guideline 1 (PG1) confirms that tenants are responsible for cleaning indoor window tracks from mould regularly throughout the tenancy, which I find the photo evidence supports the tenants failed to do. As such, under section 64(4)(c) I find the tenant’s application is frivolous and is dismissed in its entirety, without leave to reapply.

Regarding the landlord’s claim, I will address each item in order.

Item L1 - I find photo evidence supports that the tenant breached section 37 of the Act by failing to leave the rental unit carpet in a reasonably clean condition at the end of the tenancy. In addition, RTB PG1 requires that the tenants clean the carpets prior to

vacating. Therefore, I find the landlord has met the burden of proof and I grant the landlord the full amount claimed of \$233.05 for carpet cleaning.

Item L2 - I find photo evidence supports that the tenant breached section 37 of the Act by failing to leave the rental unit in a reasonably clean condition at the end of the tenancy. Therefore, I find the landlord has met the burden of proof and I grant the landlord the full amount claimed of \$225 for general cleaning, which I find to be a reasonable amount given the photo evidence showing many areas that needed cleaning as of February 5, 2023.

Items L3 and L4 – Under section 62(3) of the Act, I order the parties to comply with their mutual agreement under section 63 of the Act. Item L3 was for \$273.24 and item L4 was for \$158.20, both relating to unpaid utilities.

Item L5 – I find the tenant breach section 26 of the Act, which require rent to be paid on February 1, 2023 as the tenant did not vacate until February 5, 2023. I also find the landlord complied with section 7 of the Act, by only claiming for the 5 days the tenant was there for February 2023. As such, I find the amount of \$425 is reasonable based on \$2,400 divided by 28 days, resulting in a per day rent amount of \$85.71 and that multiplied by 5 would be \$428.55. I such, I find the landlord has actually claimed less than that amount so it is granted in full.

What should happen to the tenant's security deposit?

The landlord continues to hold the tenant's \$1,200 security deposit, which I find has accrued interest of \$22.46 for a total security deposit including interest amount of \$1,222.46.

Is either party entitled to the filing fee?

The landlord is granted the \$100 filing fee as their application had merit.

The tenant is not granted the \$100 filing fee as their claim has no merit and is frivolous. I find the landlord has established a total monetary claim **\$1,414.94** as follows:

- L1. \$233.50 for carpet cleaning
- L2. \$225 for cleaning
- L3. \$273.24 by mutual agreement (unpaid utilities part 1)
- L4. \$158.20 by mutual agreement (unpaid utilities part 2)

L5. \$425 unpaid Feb 1-5, 2023 rent
Filing fee \$100

I authorize the landlord to retain the tenant's full security deposit including interest of \$1,222.46 in partial satisfaction of their monetary claim.

I grant the landlord a monetary order for the balance owed by the tenant to the landlord in the amount of **\$192.48**, under section 67 of the Act.

CONCLUSION

The landlord has proven a claim of \$1,414.94, has been authorized to retain the full security deposit including interest of \$1,222.46 and has been granted a monetary order of \$192.48.

The tenant's claim has no merit and is dismissed in its entirety as it is frivolous.

This decision will be emailed to both parties.

The monetary order will be emailed to the landlord only for service on the tenant as required. The landlord must issue a demand for payment letter when serving the tenant the monetary order and be able to prove service before the monetary order can be enforced in the Provincial Court, Small Claims Division.

I caution the tenant that they can be held liable for all enforcement costs, including court costs.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: December 15, 2023

Residential Tenancy Branch