



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

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DECISION

Introduction

The Landlords seek compensation in the amount of \$1,131.16 from the Tenant, pursuant to sections 67 and 72 of the *Residential Tenancy Act* (the “Act”).

The Tenant seeks the return of their security deposit and the cost of the application fee, pursuant to sections 38 and 72 of the Act.

Procedural History

These applications were first set down for a dispute resolution hearing on December 22, 2023. The hearing was then adjourned to permit proper fulfilment of the service of evidence (see Interim Decision, December 22, 2023). At the adjourned hearing on March 4, 2024, it appeared that the parties met their service of evidence requirements.

Issues

1. Are the Landlords entitled to compensation?
2. Is the Tenant entitled to the return of their security deposit?
3. Is either the Landlords or the Tenant entitled to recover their application fee?

Background and Evidence

In an application under the Act, an applicant must prove their claim on a balance of probabilities. Stated another way, the evidence must show that the events in support of the claim were more likely than not to have occurred. I have reviewed and considered all the evidence but will only refer to that which is relevant to this decision.

The tenancy began on August 1, 2017, and ended on May 31, 2023. The Tenant paid a \$900.00 security deposit which the Landlords hold in trust pending the outcome of these applications. There is a copy of a written tenancy agreement in evidence.

Landlord's agent showed up on May 31, 2023, for final inspection. The rental unit was not in particularly good shape and was dirty. Cabinets were uncleaned. Seventeen windows and blinds were unclean and dusty. Touches of mold were found in window cracks. A condition inspection report was completed. Several photographs were taken by the agent and the cleaner a few days later. Many lightbulbs were burned out and had to be replaced.

The Tenant told the Landlords that they never received the garage door remote. The Tenant's former girlfriend may have taken the remote a few years early. The Landlords purchased a new garage door remote.

The Landlords seek \$1,131.16 in compensation comprising of the following claims: \$299.25 for carpet cleaning, \$630.00 for interior cleaning, \$17.91 for light bulbs, \$84.00 for a garage door remote. Invoices and receipts were submitted into evidence by the Landlords in support of their application. Also submitted into evidence was a copy of the condition inspection report.

The Tenant disputes the entirety of the Landlords' claim. I will, where relevant, reproduce and reference the Tenant's testimony, submissions, and argument, below.

Analysis

1. Landlords' Claim for Compensation (including Recovery of Application Fee)

Section 7 of the Act states that if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results. A party claiming compensation must do whatever is reasonable to minimize their loss.

Section 67 of the Act permits an arbitrator to determine the amount of, and order a party to pay, compensation to another party if damage or loss results from a party not complying with the Act, the regulations, or a tenancy agreement.

To determine if a party is entitled to compensation, the following four-part test must be met: (1) Did the respondent breach the Act, the tenancy agreement, or the regulations? (2) Did the applicant suffer a loss because of this breach? (3) Has the amount of the loss been proven? (4) Did the applicant take reasonable steps to minimize their loss?

Section 37 of the Act requires that when a tenant vacates, the tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

Having reviewed the condition inspection report and the photographs submitted into evidence, it is my finding that the Tenant breached section 37 of the Act and did not, despite his testimony to the contrary, leave the rental unit reasonably clean. Further, while it is not lost on me that the kitchen appliances were replaced and that some upgrades or renovations were done post-tenancy, neither of which have any bearing on a tenant's obligations under section 37 of the Act. Nor is there any waiver of the Tenant's obligations under section 37 made by the Landlords. Finally, having looked at the photographs of the rental unit, I respectfully disagree with the Tenant's submission that four hours cleaning was somehow 'egregious.'

Taking into careful consideration all the relevant oral and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the Landlords have met the onus of proving their claim for compensation for carpet cleaning, interior cleaning, and for the cost of the light bulbs. The losses would not have occurred but for the Tenant's breach of the Act, the amount have been proven, and it is my finding that the amounts are reasonable and that the Landlords could not have done much to mitigate theses losses.

Certainly, the lightbulbs may have been more difficult to procure and replace, but a tenant is nevertheless responsible for replacing light bulbs that may have burned out during the tenancy (see *Residential Tenancy Policy Guideline 1. Landlord & Tenant – Responsibility for Residential Premises*, ver. 2004, p. 5).

Section 37(2)(b) requires that a tenant return all keys and other means of access when they vacate a property. The condition inspection report indicates that the Tenant was provided with two garage door remotes at the start of the tenancy, and that neither were returned at the end of the tenancy. While the Landlord or their agent Landlord may have indicated waiver of the replacement cost, the Landlords were not bound by any such waiver and are entitled to claim for the replacement cost. Therefore, it is my finding that the Landlords are entitled to \$84.00 for the garage door remote.

As the Landlords were successful in their application, they are entitled to recover the cost of the application fee of \$100.00 under section 72 of the Act.

In total, the Landlords are awarded \$1,131.16. Pursuant to subsection 38(4)(b) of the Act the Landlords are entitled to retain the Tenant's \$900.00 security deposit in partial satisfaction of the award. The Tenant is ordered, pursuant to section 67 of the Act, to pay the balance of \$231.16 to the Landlords. The Landlords are issued a monetary order for this amount, with this decision, which they must serve upon the Tenant.

2. Tenant's Claim for Return of Security Deposit and Recovery of Application Fee

Having granted the Landlords' application for compensation and ordering the Landlords to retain the Tenant's security deposit, the Tenant's application for the return of the security deposit is respectfully dismissed.

Conclusion

The Landlords' application is granted.

The Landlords are awarded \$1,131.16 under sections 67 and 72 of the Act. The Landlords are authorized to retain the security deposit and are granted a monetary order for the balance of \$231.16.

The Tenant's application is dismissed, without leave to reapply.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: March 5, 2024

Residential Tenancy Branch