

DECISION

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act
- authorization to retain all or a portion of the Tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

It also dealt with the Tenant's Application under the Act for:

- a Monetary Order for the return of all or a portion of their security deposit and/or pet damage deposit under sections 38 and 67 of the Act

The Tenant HA attended the hearing. The Landlord was represented by an agent, TV.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

Both parties acknowledged service of the other party's Proceeding Package by registered mail and in accordance with the Act.

Service of Evidence

Both parties acknowledged service of the other party's evidence by registered mail and in accordance with the Act.

Preliminary Matters

I have amended the name of the Landlord in both applications to reflect its legal name.

Issues to be Decided

Is the Landlord entitled to monetary compensation?

Is the Landlord entitled to retain a portion of the security deposit?

Is the Landlord entitled to recover the filing fee?

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Evidence was provided showing that this tenancy began on February 1, 2022. Monthly rent at the end of the tenancy was \$2,550.00, due on first day of the month. A security deposit in the amount of \$1,250 was paid.

The tenancy ended on November 30, 2023. On that date, the parties conducted a move out condition inspection. The Tenants also provided a forwarding address.

The Tenant agreed to deductions totaling \$275.00 in relation to the carpets and a lost parking pass.

The Landlord said that the Tenants left the rental unit in an unclean state. They submitted a copy of the move out inspection report and pictures of the rental unit supporting their position. They said that the cost of cleaning the rental unit was \$520.00 and submitted an invoice in support.

The Tenant agreed that certain areas of the rental unit were unclean. In particular, he said that the fridge, oven and door frame were unclean. However, he said that the Landlord's claim for cleaning was exaggerated – areas left in a reasonably clean state were unnecessarily cleaned.

The Landlord has returned \$378.31 of the deposit to the Tenants and is holding the remainder pending the resolution of this case.

The Landlord filed for dispute resolution on December 15, 2023.

Analysis

Is the Landlord entitled to monetary compensation?

To be awarded compensation for a breach of the Act, the landlord must prove:

- the tenant has failed to comply with the Act, regulation or tenancy agreement
- loss or damage has resulted from this failure to comply
- the amount of or value of the damage or loss
- the landlord acted reasonably to minimize that damage or loss

Based on the evidence before me, the testimony of the parties, and on a balance of probabilities, I find that the Landlord has established a claim for compensation for damage or loss under the Act, regulation or tenancy agreement.

In particular, I find that the Tenant left certain areas of the rental unit in an unclean state. I accept that the oven, the fridge and a door frame were unclean. This was admitted by the Tenant. Based on the photos and the move out condition inspection report, I am also satisfied that some other areas, such as some of the floors, walls and surfaces were unclean.

I am not convinced, however, that the state of the rental unit warranted a \$520.00 clean. It is clear that the cleaners hired by the Landlord cleaned areas that were already at an acceptable standard. For example, their invoice states that they cleaned all bathrooms, floors, and walls. However, the Landlord's own condition inspection report does not support the finding that all of these areas were dirty. In addition, as the Tenant pointed out, the cleaners removed a piece of plywood that was installed in relation to an air conditioning unit and cleaned silicone that sealed it in place. However, the Tenant said that he had asked the Landlord's representative about this and she told him it was not a problem. It is unreasonable for the Tenant to now be required to pay for this work. More generally, the pictures submitted by the Tenant simply do not support a \$520.00 cleaning bill.

I find it is appropriate to award the Landlord some compensation, given that I have found that there were areas of the rental unit left unclean. I therefore award nominate damages to the Landlord in the amount of \$175.00.

Is the Landlord entitled to retain a portion of the security deposit?

Because the Landlord filed within 15 days of receiving the Tenants' forwarding address, the security deposit is not doubled. Pursuant to section 72 of the Act, the Landlord is entitled to retain a portion of the security deposit in full satisfaction of the monetary award. The Tenant is entitled to the return of the remainder of the deposit.

Is the Landlord entitled to recover the filing fee?

The Landlord was only partially successful. In the circumstances, I find that the Landlord is entitled to recover half of the filing fee, which is \$50.00.

Conclusion

I grant the Tenants a Monetary Order in the amount of **\$394.05** under the following terms:

Monetary Issue	Granted Amount
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Security deposit with interest	\$1,272.36
Less amount previously returned	\$378.31
Less compensation	\$175.00
Less filing fee	\$50.00
Less agreed deduction	\$275.00
Total Amount	\$394.05

The Tenants are provided with this Order in the above terms and the Landlord(s) must be served with **this Order** as soon as possible. Should the Landlord(s) 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 Act.

Dated: April 19, 2024

Residential Tenancy Branch