



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Introduction

This hearing dealt with two applications pursuant to the *Residential Tenancy Act* (Act). The Tenant's application for:

- Return of their security deposit and pet damage deposit that the Landlords are retaining without cause
- Reimbursement of the filing fee

And the Landlords' application for:

- A Monetary Order for unpaid utilities, and for compensation for monetary loss or money owed
- 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
- Reimbursement of the filing fee

Those listed on the cover page of this decision attended the hearing and were affirmed.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and Evidence

No service issues arose except for the Landlords' evidence of text message communication dated June 2020. At the outset of the hearing, the Tenant testified that they received all documentary evidence from the Landlords. During the hearing, when the Landlord referenced the text message communication of June 2020, the Tenant stated that they had not received this evidence. I excluded the documentary evidence and proceeded on the testimony provided by the parties with respect to this evidence.

Preliminary Matters

On May 12, 2024, the Landlords submitted to the Residential Tenancy Branch (RTB) evidence submission portal their Monetary Order Worksheet (MOW). The MOW has an additional claim of \$58.89 that was not part of the Landlords' original application. As such, I will not consider this additional claim as it would be procedurally unfair to do so.

Issue(s) to be Decided

Are the Landlords entitled to a monetary order for unpaid utilities, and for compensation for monetary loss or money owed?

Are the Landlords entitled to recover the filing fee for this application from the Tenant?

Are the Landlords entitled to retain all or a portion of the Tenant's security deposit in partial satisfaction of the monetary award requested?

Is the Tenant entitled to the return of their security deposit and pet damage deposit that the Landlords are retaining without cause?

Is the Tenant entitled to recover the filing fee for this application from the Landlord?

Background and Evidence

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

Both parties agreed that this tenancy began on July 1, 2020 and ended on February 1, 2024. The monthly rent of \$1,200.00 was due on the first day of each month.

The Tenant testified that on July 1, 2020, they paid by cash payment a security deposit of \$600.00 and a pet damage deposit of \$600.00.

Landlord JJ testified that on July 1, 2020, the Tenant paid a security deposit of \$600.00, and that they did not pay a pet damage deposit. JJ referred to the Tenancy Agreement (TA), which indicates a security deposit of \$600.00, and no amount for the pet damage deposit. JJ testified that at the start of the tenancy they only asked for the payment of the security deposit. JJ referred to text message communication dated December 2023, when the Tenant stated they do not recall if they paid a pet damage deposit. The TA and text message of December 2023 were submitted as part of the Landlords' documentary evidence.

Both parties agreed that on February 22, 2024, the Tenant provided their forwarding address in writing to the Landlords.

The Landlords are seeking a monetary order as follows:

Item 1 - \$79.61, for unpaid utilities. JJ testified that the Tenant failed to pay water bill utilities, and that they had emailed the utility bill to the Tenant. The Landlord submitted the utility bill as part of their documentary evidence.

The Tenant admitted that the utility bill is outstanding, and stated that they are willing to pay the outstanding amount if the Landlord would return their security deposit and pet damage deposit.

Item 2 - \$293.79, for cleaning services. JJ testified that the rental unit was left in a dirty and unreasonable condition at the end of the tenancy. JJ stated that they relied on cleaning services to clean the bathroom, kitchen, windows and blinds. The Landlords submitted photographs as part of their documentary evidence. JJ testified that they paid three individuals for three hours of cleaning. The Landlords submitted the paid invoice of \$293.79, dated March 2, 2024, as part of their documentary evidence.

The Tenant testified that the rental unit was in a filthy and dirty condition at the start of the tenancy, and all else was from general wear and tear over a four year tenancy. The Tenant testified that they cleaned the rental unit, but did not clean the fan or behind the oven.

Item 3 - \$200.00 for loss of two coffee tables. JJ testified that the tenancy included two coffee tables, which were to be left behind by the Tenant. JJ referred to text message communication where the Tenant admitted that they have the tables and will leave them. The Landlords submitted the text message communication and photographs of the coffee tables as part of their documentary evidence. JJ testified that they are yet to replace the tables, and are seeking an estimated amount of \$100.00 per table, for the total of \$200.00.

The Tenant testified that the tenancy started with tables that were possibly left by the previous tenant, and that they replaced those tables two years ago. The Tenant testified that all other tables were left at the rental unit. The Tenant testified that the Landlords did not include or list the coffee tables as part of the TA.

Analysis

Are the Landlords entitled to a monetary order for unpaid utilities, and for compensation for monetary loss or money owed?

Under section 67 of the Act, when a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. In this case, to prove a loss, the Landlord must satisfy the following four elements on a balance of probabilities:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the tenant in violation of the Act, Regulation or tenancy agreement;

3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
4. Proof that the landlord followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Based on the evidence before me, the testimony of the parties, and on a balance of probabilities, I find that the Landlords have established a claim for compensation for damage or loss under the Act, regulation or tenancy agreement as follows:

Item 1 - \$79.61, for unpaid utilities. The Landlords' documentary evidence shows the outstanding utility bill. These bill were being paid by the Tenant throughout the tenancy. The Tenant admitted that they did not pay the outstanding amount. I find the Landlords are owed the amount of \$79.61 for the utility bill as per the agreement between the parties. I grant the Landlords a monetary award of this amount.

Item 2 - \$293.79, for cleaning services. I find the Landlords documentary evidence shows the rental unit required cleaning services at the end of the tenancy. Although the Tenant stated that the rental unit was dirty as the start of the tenancy, I find this is no excuse with respect to the end of the tenancy. Section 37 of the Act states when a tenant vacated the rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. I find the photographs of the windowsill and blinds show an unacceptable and dirty condition of the rental unit. The Landlords provided the receipt of \$293.79 to prove the claimed loss. I grant the Landlords a monetary award of this amount.

I decline to award the claim of \$200.00 for the loss of two coffee tables. I am not satisfied that the Landlords established the agreement of including these items as part of the tenancy, and for the Tenants to return these items at the end of the tenancy. I find the Landlords did not prove that the loss exists due to the actions or neglect of the Tenant in violation of the Act, regulation or tenancy agreement. For these reasons of insufficient details and evidence, this claim is dismissed without leave to reapply.

Are the Landlords entitled to recover the filing fee for this application from the Tenants?

As the Landlords were successful in their application, I find that the Landlords are entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

I grant the Landlords a monetary award of \$473.40 as follows:

- \$79.61 for unpaid utilities

- \$293.79, for cleaning services
- \$100.00 for the cost of the filing fee

Are the Landlords entitled to retain all or a portion of the Tenants' security deposit in partial satisfaction of the monetary award requested under section 38 of the Act, or is the Tenant entitled to the return of the security deposit that the Landlords are retaining without cause and the cost of the filing fee for this application?

Before addressing the return of any claimed deposits, I will first address the amount of deposit(s) paid by the Tenant to the Landlord. In this case, I find the Tenant paid a security deposit of \$600.00 to the Landlords, as supported by the Tenancy Agreement and documentary evidence of a text message between the parties. Although the Tenant claims they paid \$600.00 for a pet damage deposit, in their text message communication of December 2023, they stated that they do not recall the payment for the pet damage deposit. Further, there is no evidence before me that such a payment was made by the Tenant.

Based on the above, I find that on July 1, 2020, the Tenant paid the security deposit of \$600.00, which the Landlord continues to hold in trust. I find there was no payment of a pet damage deposit.

I find the Landlords are holding a total deposit of \$600.00 as noted above. Further, the \$600.00 security deposit has accrued \$18.86 in interest. Therefore, the Landlord are holding a total deposit of \$618.86.

Section 38 of the Act states that within 15 days of either the tenancy ending or the date that the landlord receives the tenant's forwarding address in writing, whichever is later, a landlord must repay a security deposit to the tenant or make an application for dispute resolution to claim against it.

As the forwarding address was provided on February 22, 2024, and the Landlords made their application on March 4, 2024, I find that the Landlords did make their application within 15 days of the forwarding address being provided.

Under section 72 of the Act, I allow the Landlords to retain the security deposit of \$473.40 in full satisfaction of the monetary award. I order the Landlords to immediately return the balance of the security deposit held, or \$145.46, to the Tenant. To give effect to this order, I grant the Tenant a monetary order in the amount of \$145.46.

I find the Landlords were entitled to hold the security deposit as per the Act. I dismiss the Tenant's application to recover the filing fee for this application from the Landlords.

Conclusion

I grant the Landlords a Monetary Order in the amount of \$473.40, which the Landlords may deduct from the security deposit in full satisfaction of the claim.

I order the Landlords to immediately return the balance of the deposit held, or \$145.46, to the Tenant. To give effect to this order, I grant the Tenant a monetary order in the amount of \$145.46.

The Tenant is provided with this Order in the above terms and the Landlords must be served with **this Order** as soon as possible. Should the Landlords 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 *Residential Tenancy Act*.

Dated: June 07, 2024

Residential Tenancy Branch