

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

and the Tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (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
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

I find that the Landlord(s) acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

I find that the Tenant(s) acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

Service of Evidence

Based on the submissions before me, I find that the Tenant's evidence was served to the Landlord in accordance with section 88 of the Act.

Based on the submissions before me, I find that the Landlord's evidence was served to the Tenant in accordance with section 88 of the Act.

Issues to be Decided

Is the landlord entitled to a Monetary Order for damage to the rental unit or common areas?

Is the landlord 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 a Monetary Order for the return of all or a portion of their security deposit and/or pet damage deposit.

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

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

Facts and Analysis

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

The Landlord provided a copy of the tenancy agreement showing the tenancy began on August 1, 2019, with a security deposit of \$1375.00 and a pet damage deposit of \$1375.00.

Is the landlord entitled to a Monetary Order for damage to the rental unit or common areas?

In the Notice of Dispute Resolution section for requesting compensation the Landlord requests \$2,750.00 and wrote:

2 Baseboards 1 door frame Patio screen door Removal of nail holes and sand/patch Cleaning of tall ceiling fan and surrounding ceiling Pressure wash deck and stairs Hang closet door downstairs that was broken Fix walls that are missing paint or chunks Fix wood railing outside house Fix window trim and metal sticking out of window in upper bedroom Replace burnt out light bulbs. Lock change for doors as not all keys returned paint for downstairs room carpet replacement for 1 room 4 Hours clean

The Landlord provided a Monetary Order Worksheet as follows:

Dumaresq Cleaning Services	Steam Cleaning	\$600
Dumaresq Cleaning Services	House Cleaning	\$800
Home Depot	Deadbolt/Lock	\$114.44
Amazon	Doorbell	\$144.98
Home Depot	Resolve Pet	\$55.82
Walmart	Pet Scent Solution	\$90.57
Amazon	Orange Odor Eliminator	\$32.99
Amazon	Pet Deodorizers	\$56.72

	Total	\$1895.52
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When asked to explain the discrepancy, the Landlord affirmed a second additional Monetary Order Worksheet had been submitted, however it is not part of the evidence in front of me.

Section 59(2)(b) of the Act states that an application for dispute resolution must include full particulars of the dispute that is to be the subject of the dispute resolution proceedings. Furthermore, rule of Procedure 2.5 states the applicant must submit a detailed calculation of any monetary claim being made, and Rule 3.7 of the Rules of Procedure also states that evidence must be organized, clear and legible.

I find the application is vague, as it does not provide the amounts for each claim the Landlord is making. I further I find it is not clear from the Landlord's submissions, which evidence corresponds with which claim.

I find that the Landlord has complied with neither the Rules of Procedure nor Section 59 of the Act.

Therefore, for the above reasons, and as I make no findings as to the merits of the Landlord's claim, the Landlord's application for a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act is dismissed with leave to reapply.

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? If not, is the Tenant entitled to a Monetary Order for the return of all or a portion of their security deposit and/or pet damage deposit.

Both parties agree that the Tenant vacated the rental unit on March 31, 2024, and that the Landlord received the Tenant's forwarding address on February 9, 2024.

Section 38(1) and (6) of the *Act* addresses the return of security deposits.

38(1) Except as provided in subsection (3) or (4) (a), **within 15 days after** the later of

- a. the date the tenancy ends, and
 - b. **the date the landlord receives the tenant's forwarding address in writing,**
- the landlord must do one of the following:**
- c. **repay**, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
 - d. **make an application** for dispute resolution claiming against the security deposit or pet damage deposit.

...

- (6) If a landlord does not comply with subsection (1), the landlord
 - a. may not make a claim against the security deposit or any pet damage deposit, and

- b. **must pay the tenant double the amount of the security deposit**, pet damage deposit, or both, as applicable.

Because the tenancy ended prior to the Landlord receiving the Tenant's forwarding address on February 9, 2024, the Landlord had until February 24, 2024, to make an application for dispute resolution claiming against the Tenant's deposits. As the Landlord's intake payment was received on April 14, 2024, they failed to apply for dispute resolution within the required time period.

For the above reasons, I find the Landlord, under section 38(6) of the Act is not entitled to retain any portion of the Tenant's deposits, and their application to do so is dismissed without leave to reapply. Furthermore, under section 38(6) of the Act, I find the Landlord must pay the Tenant double the amount of their security deposit (\$1375.00) and pet damage deposit (\$1375.00), plus interest of \$93.48, for a total amount of \$5,593.48.

Therefore, I find the Tenant is entitled to 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 in the amount of \$5,593.48.

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

As the Landlord was not successful in this application, the Landlord's application for authorization to recover the filing fee for this application from the Tenant under section 72 of the Act is dismissed, without leave to reapply.

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

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

Conclusion

The Landlord's application for a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act is dismissed with leave to reapply.

I grant the Tenant a Monetary Order in the amount of **\$5,693.48**. under the following terms:

Monetary Issue	Granted Amount
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	\$5,593.48
authorization to recover the filing fee for this application from the Tenant under section 72 of the Act	\$100.00

Total Amount	\$5,693.48
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The Tenant is 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: August 5, 2024

Residential Tenancy Branch