



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNDL-S, MNRL-S, LRSD, FFL, MNSD

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

This hearing also dealt with the tenant's cross-application pursuant to the *Act* for:

- authorization to obtain a return of double their security deposit pursuant to section 38.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions and arguments. The parties acknowledged receipt of evidence submitted by the other. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent or other compensation?
Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?
Is the landlord entitled to the recovery of the filing fee for this application?
Is the tenant entitled to the return of double their security deposit?

Background and Evidence

MS gave the following testimony. The one year fixed term tenancy began on September 1, 2023 but ended early on May 1, 2024 with only ten days notice. The monthly rent of \$2400.00 was due on the first of each month. The landlord collected and still holds a security deposit of \$1,100.00. Condition inspection reports were conducted at move in and move out with both parties present. MS testified that HM agreed that the unit was left dirty and damaged and agreed that the landlord could retain the security deposit by signing it over on the move out condition inspection report. MS testified that she speaks Farsi and that she explained in great detail to both tenants their rights and responsibilities including their responsibility for utilities and gas and helped them set up an account for BC Hydro.

The landlord is applying for the following:

1.	Kitchen Cleaning	\$280.00
2.	Handyman and parts for transition piece	277.89
3.	May Rent	2400.00
4.	Utility Bill	381.00
5.	Fortis	87.93
6.	Filing Fee	100.00
	Total Claim	\$3,526.82

MK submits that the landlord had the tenant sign the condition inspection report without him knowing what he was signing. MK submits that the tenants were not aware that they had to pay any thing other than ten to fourteen dollars for gas each month and that it was not explained to them that they had to pay for other utility costs. MK submits that the unit was clean and undamaged at move out. MK submits that the landlord forced the tenants to leave earlier than expected and that they shouldn't owe any rent. MK submits that the rent was to be \$2200.00 per month but was noted on the contract \$2400.00 for mortgage purposes. MK submits that the tenants should be entitled to the return of their deposit.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. **In order to claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof.** The claimant

must provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I address the landlords claim as follows. The landlord provided documentation, receipts, and the condition inspection report to support their claim for damages, utility costs, cleaning and Fortis. The tenants submit that the landlord forced them to move but did not provide sufficient evidence of that claim. I am satisfied that the tenants did not provide sufficient and appropriate notice to end the tenancy. As a result, I find that the landlord is entitled the loss of revenue for May 2024. The landlord has proved their entire claim and are entitled to \$3,526.82 which includes the recovery of the filing fee for this application.

I address the tenants claim as follows. The tenant agreed with the condition of the unit at move out and further agreed that the landlord could retain the deposit. The tenants made several claims challenging the landlords documentation, but did not provide sufficient evidence to support their position. The tenants have not provided sufficient evidence that the landlord somehow coerced or tricked the tenant into signing any document against their will or knowledge. The tenants are not entitled to the return of their deposit because they agreed that the landlord could keep it, accordingly; I dismiss the tenants' application in its entirety without leave to reapply.

The landlord is entitled to retain the security deposit of \$1,100.00 plus accrued interest of \$26.00 in partial satisfaction of the claim. The landlord is entitled to an order under section 67 for the remaining balance of \$2,400.82.

Conclusion

The landlord is entitled to a monetary order of \$2,400.82.

The tenant's application is dismissed in its entirety without leave to reapply.

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: August 19, 2024

Residential Tenancy Branch