

DECISION

Introduction

This hearing dealt with the Landlord's Application filed on October 6, 2024, for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a Monetary Order for unpaid rent under section 67 of the Act
- 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

This hearing dealt with the Tenants' Application filed on October 23, 2024, for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- return of double the security deposit and pet damage deposit (Deposits)

Both parties appeared and are noted on the covering page of this Decision. The parties confirmed they received each others evidence.

Preliminary Issue

The Tenant writes in their application that they provided the Landlord with their forwarding address on September 24, 2024. The Landlords filed their application on October 6, 2024, claiming against the Deposits, which was within 15 days as required by the Act. I find the Tenants are not entitled to double the return of their Deposits. However, the Deposits as paid and interest will be considered, as I must deal with the Deposits through the Landlords' application.

Background and Evidence

The tenancy began September 2020. Rent of \$3,000.29 was payable each month The Tenants paid a security deposit of \$1,400.00 and a pet damage deposit of \$700.00

(Deposits). The Deposits incurred interest of \$79.58 during the tenancy. The Tenancy ended on September 1, 2024.

The parties agreed that a move-in and move-out condition inspection report (Report) was completed. However, at the move-out condition inspection the parties disagreed, and tension rose, and the police were called. The Tenant did not sign the Report.

The Landlords claim as follows:

a.	Unpaid utilities	\$508.87
b.	Bathroom damage repair	\$801.76
c.	Cleaning fee	\$210.00
d.	Painting and wall repair	\$4,956.00
e.	Washing Machine repair	\$444.26
f.	Various repairs	\$1,295.32
g.	Light fixture	\$303.69
h.	Filing fee	\$100.00
	Total claimed	\$8,619.

Item a

This matter was settled during hearing the parties agreed that the Tenant owes \$363.84 for utilities; however, the parties agreed that this will be reduced by \$109.35 leaving the balanced owed by the Tenants of \$254.49.

Item b

The Landlord testified that the Tenant had caused excessive damage to the bathroom ceiling and some trim by excessive humidity caused by the Tenant. The Landlord stated that this had happened earlier in the tenancy, which they paid for the repair at their own cost. The Landlord stated that the fan was installed by a qualified person and there was no issues with the fan. The Landlord stated that their own family of three had lived in the rental unit and there was no issues with excessive humidity. The Landlord stated that the bathroom also has a window which can be open if needed. The Landlord stated that they had to pay for the repair in the amount of \$801.76

The Tenant testified that the fan that is in the bathroom was not adequate for their family of four. The Tenant stated that the fan has moisture control; however, it would turn off within 5 minutes of somebody leaving the bathroom and there was no way to leave the fan on. The Tenant stated that they did try to leave the window open;

however, that was not a good solution in the winter months, and they had purchased some fans. The Tenant stated that the Landlord did address the issue earlier in their tenancy; however, the humidity quickly came back.

Item c

The Landlord testified that the Tenant did not clean the rental unit, and they had to hire a cleaner. Filed in evidence is a copy of the invoice. The Landlord stated that the cleaner would not clean the appliances, and they did not charge the Tenant for their time.

The Tenant testified that they do not dispute the state of the rental unit; however, they were not given the opportunity to return to the rental unit to clean.

Item d

The Landlords provided an invoice for painting and repairs to the walls. The Landlord stated that they are aware that they would not be entitled to the full cost as there was wear and tear; however, there numerous holes that had to be filled, and sanded and there was damage to the doors and the Tenant had put some sort of sealant on the base board trim that had yellowed. The Landlord stated that the rental unit was painted approximately eight years earlier.

The Tenant testified that they do not dispute that there were some holes in the walls, and they had acknowledged this back in December of 2023. The Tenant stated that they had a TV mount and a couple of monitor mounts and there were a few other holes. The Tenant stated that they had done a first pass of filling some holes; however, they were not given the opportunity to come back to repair the holes. The Tenant stated that they believe repairing the holes would be around \$150.00 to \$200.00.

Item e

The Landlord testified that the laundry was shared between the downstairs tenant and the upstairs renter. The Landlord stated that the Tenant had asked if they could put their own appliances in the space and we had said no. The Landlord stated that the tenant did it anyway and they had asked the Tenant to put the appliances back. However, they did not want to cause any problems, and they allowed their appliances to be stored in the shed. The Landlord stated that there understanding was that this caused the seal in the door of the washing machine to dry out causing it to leak and then the control valve,

the inlet valve, it was not draining properly which caused it to overflow with water and then leak.

The Tenant testified that upon move in, they had asked the Landlord about installing their own appliances and they had indicated that they wanted to speak to the co-landlord first. The Tenant stated that by the time they got the Landlord's response they had already had their movers remove them and had installed their own. The Tenant stated that it was too late as they were not capable of moving them by themselves and when they called the moving company it was roughly \$300.00 which they did not have the funds for at that time, to have them come back to move the appliances and the Landlord told them they could store them in the shed.

Item f and g

The Landlord testified that they had their contractor do various repairs such as replace the kitchen faucet, repair a bunch of damage to the inside of the closet. He checked the electrical light switches as the Tenant had tampered with the electrical wiring and two switches had been found incorrectly wired. That they had to have the concrete countertops resealed as the sealant was excessively worn and not maintained properly and a new light fixture had to be installed as the Tenant had removed the original and there was water damage.

The tenant testified that they are having a difficult time going through this invoice as they do not believe that this is their responsibility. The Tenant stated that they had broken one light switch, which they replaced, and they took a photograph of the wires and replaced the wires exactly the same way. The Tenant stated that the light fixture the Landlord purchase was a far better light that was in the rental unit.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the Landlords have the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation, or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Section 37(2) of the Act states, when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

Residential Tenancy Policy Guideline 40 refers to the useful life of building elements.

Item a

During the hearing, the parties agreed that the Tenant owes \$363.84 for utilities; however, the parties agreed that this will be reduced by \$109.35 leaving the balanced owed by the Tenants of **\$254.49**.

Item b

I find the Tenant is responsible for the damage that was caused to the bathroom the second time it happened that is again related to excessive humidity. While the fan may not have been adequate for the Tenants family usage; however, the fan was working. The Tenant could have taken additional steps to ensure this issue did not happen again by leaving the window open and wiping down the walls. This was caused by the Tenant's actions not the Landlord's neglect to make repairs. Therefore, I find the Tenant owes the Landlords **\$801.76**

Item c

The Tenant does not dispute the state of the unit at the end of the tenancy. The Landlord does not have any obligations under the Act, to allow a tenant back into the rental once their tenancy has legally ended. I find the amount claimed by the Landlord is reasonable. I find the Tenant owes the Landlord **\$210.00**.

Item d

In this case, I cannot determine the value of the Landlord's loss based on the invoice they provided dated September 30, 2024. The paint was past its useful life span as it was over 5 years old, and the Tenant would not be responsible for repainting the rental unit. As the Tenant admitted they had left some holes; I find it reasonable to grant the Landlords a nominal amount for having to pay to fill the holes in the amount of **\$150.00**.

Item e

I am not prepared to grant the Landlords any compensation to repair the washing machine due to a leak that occurred from the seal. While I accept the Tenant did not have the right to remove the Landlord's appliances and replace them with their own; however, the Landlords knew the appliances had been removed at the start of the tenancy and stored in the outdoor shed. The Landlord should have taken their own precautions at that time. Therefore, I dismiss the portion of the Landlord's claim.

Item f and g

In this case, I find the Landlords have not met the burden of proof. I cannot determine the value of the loss. The invoice is not broken down and list multiple items that are not the Tenants responsibility to repair, such as smoke alarms, replace kitchen faucet, replace toilet seat, tighten toilet seat, clean, and apply sealer to the kitchen and main bath countertop. This is the Landlord responsibility to maintain the property. Therefore, I dismiss this portion of the Landlord's application. Further, I am not satisfied the Tenant is responsible to replace the light fixture as the one purchased was an improvement.

I find that the Landlords have established a total monetary claim of **\$1,516.25** comprised of the above described amounts and the \$100.00 fee paid for this application.

I order that the Landlords to retain the above amount (\$1,770.74) from the Deposits and interest (\$2,179.58) in full satisfaction of their claim. This leave a balance of **\$663.33** due to the Tenants which must be returned forthwith. I grant the Tenants a formal monetary order for the remainder of their Deposits, should the Landlord fail to return the balance due.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The Landlords are **cautioned** that costs of such enforcement are recoverable from the Landlords.

Conclusion

The Landlords are granted a monetary order in the above amount and may keep a portion of the Deposits in full satisfaction of the claim. The Tenants are not entitled to double the Deposits; however, I have granted the Tenants a formal monetary order for the balance of the Deposits.

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: November 26, 2024

Residential Tenancy Branch