



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AL STOBER CONSTRUCTION LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, FF

Introduction

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

- a monetary order for unpaid rent, for damage to the rental unit 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 tenants' security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants, pursuant to section 72.

The landlord's three agents, landlord LP ("landlord"), "landlord SK" and "landlord LM," and the two tenants attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Landlord LM did not provide any testimony at this hearing. All three agents confirmed that they were managers for the landlord company named in this application and that they had authority to represent the landlord company at this hearing. This hearing lasted approximately 72 minutes in order to allow both parties to fully present their submissions.

The tenants confirmed receipt of the landlord's application for dispute resolution hearing package ("Application"). In accordance with sections 89 and 90 of the *Act*, I find that both tenants were duly served with the landlord's Application.

Issues to be Decided

Is the landlord entitled to a monetary award for unpaid rent, for damage arising out of this tenancy and for money owed or compensation for damage or loss under the *Act, Regulation* or tenancy agreement?

Is the landlord entitled to retain the tenants' security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for its Application?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the landlord's claims and my findings are set out below.

Both parties agreed that this tenancy began on January 1, 2014 and ended on June 2, 2015. Monthly rent in the amount of \$880.00 was payable on the first day of each month plus an additional \$20.00 for laundry costs. Both parties agreed that a security deposit of \$440.00 was paid by the tenants and the landlord continues to retain this deposit. A partial copy of the written tenancy agreement was provided for this hearing. The landlord stated that the rental unit is an apartment of approximately 750 to 800 square feet with two bedrooms and two bathrooms.

Both parties agreed that move-in and move-out condition inspection reports were completed for this tenancy. The tenants indicated that they agreed with the move-in condition inspection report but disagreed with the move-out condition inspection report. Both parties agreed that the tenants provided a written forwarding address on June 8, 2015 on the move-out condition inspection report. The landlord confirmed that the landlord's application was filed on June 15, 2015.

The landlord seeks a monetary order of \$952.99 for unpaid rent, cleaning and damage to the rental unit. The landlord applied to offset the security deposit of \$440.00 against this monetary order. The landlord also applied to recover the \$50.00 filing fee for its Application.

The landlord seeks \$60.00 for unpaid rent from June 1 to 2, 2015, as the tenants did not vacate on May 31, 2015 as required. The tenants agreed that they owed this amount to the landlord.

The landlord seeks \$340.00 to clean the rental unit after the tenants vacated. The landlord stated that the tenants were given an extra two days on June 1 and 2, 2015 to clean the rental unit, but they failed to do so. The landlord confirmed that the oven and hood fan were the dirtiest areas and the tenants left items in the freezer that had to be disposed. The landlord provided an invoice for this cleaning and a detailed breakdown of the work done for a period of 17 hours by two people. The move-out condition inspection report indicates a detailed description for cleaning in one section. The landlord provided photographs of the dirty oven and hood fan but not any other areas because she said it was difficult to see the dirt in other areas.

The tenants dispute the cleaning costs claimed by the landlord. They stated that the landlord failed to provide photographs of the other areas of the rental unit besides the oven and hood fan. The tenants stated that they wanted to return to retrieve their freezer food and were told that the only dirty area was the stove which they thought they could return to clean. The tenants stated that the landlord would not allow them to come back to the unit to finish this work. The tenants claim that the landlord charged an excessive amount of hours for cleaning, as they were told by the landlord that it only took three to four hours to clean, not seventeen.

The landlord claims \$200.00 for carpet cleaning. The landlord provided an invoice with a description of the areas cleaned. The landlord confirmed that there were multiple stains in the carpet. The tenants dispute the landlord's claim, stating that there were no stains, burn holes or spots in the carpet. They noted that they vacuumed the carpet but did not steam clean it because the landlord did not tell them to do so. The landlord noted that no photographs were provided because the landlord did not realize that this matter would be going to arbitration at that time.

The landlord claims \$217.99 to repair a patio door and screen. The landlord advised that the patio screen was torn and the patio door handles were loose, which were not noted on the move-in condition inspection report. The tenants claimed that they told the landlord that the patio door handles were loose but the landlord never fixed them. The tenants stated that they had to remove the handles and use a tool to open the patio door during their tenancy. The tenants indicated that they told the landlord to fix the torn patio screen but the landlord did not fix it and it should have been done at the beginning of the tenancy as the screen would fall off its hinges. The landlord provided a photograph of the tear. The landlord provided an invoice, dated June 5, 2015, for \$156.25 for the screen and an invoice, dated June 3, 2015, for \$38.82 for the handles. The landlord confirmed that an extra \$22.92 was spent on the labour for the installation but did not provide a receipt for this work.

The landlord claims \$50.00 to replace a refrigerator crisper drawer. The landlord noted that the drawer had burn marks, which were not indicated on the move-in condition inspection report. The tenants stated that they did not cause or notice any burn marks in the refrigerator. The landlord provided a photograph of this damage. The landlord provided an email estimate, dated June 15, 2015, for the cost, which ranges between \$30.00 and \$65.00. The landlord noted that although the estimate states June 15, 2015, the work was actually done right away on June 3, 2015. The landlord confirmed that \$50.00 was actually paid for this repair but a receipt was not provided.

The landlord claims \$85.00 for broken stove glass. The tenants claim that the stove glass was broken when they moved into the rental unit. The tenants stated that the crack was located in the clock area of the stove so it did not affect them and they did not notice or worry about the damage. However, the damage is not noted on the move-in condition inspection report. The landlord provided a photograph of this damage. The landlord indicated "stove glass \$85.00" on the move-out condition inspection report. The landlord did not provide an invoice or receipt for this amount and could not explain how the number was arrived at during the hearing.

Analysis

Section 67 of the *Act* requires a party making a claim for damage or loss to prove the claim, on a balance of probabilities. In this case, to prove a loss, the landlord must satisfy the following four elements:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the tenants in violation of the *Act*, *Residential Tenancy 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.

I award the landlord \$60.00 for unpaid rent, as the tenants agreed to this amount during the hearing.

Although the landlord provided a number of receipts and invoices for various dates, some of which were while the tenants were still in the rental unit on June 1 and 2, 2015, I accept the testimony from the landlord's two agents that the repairs and cleaning were completed when the tenants had already vacated the rental unit. I also accept the landlord's corroborating documentary evidence in the move-out condition inspection

report and the photographs. I also note that the tenants' testimony during this hearing acknowledged the various damages.

I award the landlords \$100.00 for general cleaning of the rental unit. The landlord provided a receipt for \$340.00. The landlord indicated that various areas were dirty on the move-out condition inspection report and provided photographs of the dirty oven and hood fan. However, the landlord did not submit photographs of other dirty areas, in indicating that the oven was the biggest issue. The tenants agreed that the oven was dirty and that they left food in the freezer. The tenants were required to completely clean and remove all of their belongings prior to vacating, which they failed to do, despite the fact that they were given an extra two days to do so. The amount of rent of \$60.00 for the extra two days does not cover the cleaning costs as claimed by the tenants, as it is for use and occupancy of the rental unit. As per Residential Tenancy Policy Guideline 1, the tenants are required to maintain "reasonable health, cleanliness and sanitary standards" throughout the rental unit during the tenancy and the tenants are also "generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard." I find that the tenants did not fully abide by the above guideline at the end of this tenancy and that the above amount is a reasonable amount for cleaning the rental unit. I find that 17 hours to clean the entire unit by two people, after the tenants cleaned most of it, is excessive for a unit of this size and for the work that had to be done. I find that 5 hours to clean the unit at the landlord's receipted cost of \$20.00 per hour, is reasonable.

I award the landlord \$200.00 for carpet cleaning. The landlord provided a receipt for the above amount. The landlord noted stains in the carpets of the bedrooms on the move-out condition inspection report. Residential Tenancy Policy Guideline 1 indicates that the tenants will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. The tenants resided at this rental unit for almost 1.5 years. The tenants stated that they only vacuumed but did not steam clean or shampoo the carpets. Therefore, I find that the tenants were responsible to complete this cleaning, that it was necessary to do so and that they failed to appropriately clean the carpet.

I award the landlord \$156.25 for the replacement of the patio screen and \$38.82 for the repair of the door handles. I dismiss the landlord's claim of \$22.92 for the labour installation as no receipt was provided for this amount and the landlord failed part 3 of the above test. The landlord provided receipts for the screen and handles and a photograph of the torn screen. The tenants agreed that the patio screen was torn and the patio door handles were taken off. I find that there was no notation on the move-in condition inspection report, which the tenants agreed with and signed, that the patio door screen was torn or the patio door handles were loose or dysfunctional. I find that

the tenants failed to provide written evidence that they requested a repair of these items from the landlord during their tenancy, as they claimed. The issues were only noted on the move-out condition inspection report. Therefore, I find that the tenants caused and are responsible for this damage.

I dismiss the landlord's claim of \$50.00 for the refrigerator crisper drawer replacement and \$85.00 for the stove glass repair, without leave to reapply. The landlord did not provide any documentary evidence, such as receipts or invoices, to support these claims for damages. I find that the landlord failed to meet part 3 of the above test.

As the landlord was only partially successful in this Application, I find that the landlord is not entitled to recover the \$50.00 filing fee from the tenants. The landlord must bear the cost of the filing fee.

The landlord continues to hold the tenants' security deposit of \$440.00. Over the period of this tenancy, no interest is payable. In accordance with the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenants' deposit of \$440.00, in partial satisfaction of the monetary award.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$115.07 against both tenants as follows:

Item	Amount
Unpaid Rent	\$60.00
General Cleaning	100.00
Carpet Cleaning	200.00
Patio Door Screen	156.25
Patio Door Handles	38.82
Offset Tenants' Security Deposit	-440.00
Total Monetary Award	\$115.07

The landlord is provided with a monetary order in the amount of \$115.07 in the above terms and the tenant(s) must be served with this Order as soon as possible. Should the tenant(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.

The landlord's application to recover the \$50.00 filing fee is dismissed 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: December 17, 2015

Residential Tenancy Branch

