



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lateral West Developments Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damage to the unit - Section 67; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Preliminary Matter

The application for dispute resolution filed by the Landlord with the Residential Tenancy Branch (the “RTB”) does not set out any amount being claimed. The Tenant states that it received this same application along with the Landlord’s monetary order worksheet that sets out conflicting or competing claims for \$1,300.00 and \$713.00. The Tenant states that it subsequently received another copy of the application with, among other things, the amount of \$1,400.00 set out as being claimed. The Landlord states that the original application document does not set out the amount claimed as the Landlord did not know that amount at the time. The Landlord states that the intent with the second application was to amend the original application.

Rule 4.2 of the RTB Rules of Procedure provides that in circumstances that can reasonably be anticipated an application may be amended at a hearing. Although the Landlord did not formally amend the application, the Tenant was given the original

application with a monetary work sheet leading to a reasonable expectation of a monetary claim. I therefore amend the application to include a monetary amount. However given the conflicting claim amounts I limit the monetary claim to the lowest amount claimed of \$713.00.

Issue(s) to be Decided

Is the Landlord entitled to the costs claimed?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on July 1, 2014 and ended on December 31, 2016. Rent of \$1,600.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$800.00 as a security deposit and \$800.00 as a pet deposit. The Tenants agreed to a deduction of \$381.70 from the security and pet deposit and on January 14, 2017 the Landlord returned the remaining \$1,218.30.

The Landlord states that in addition to major dents on the bottom panel of the garage door, the Tenants left minor dents on the upper three panels. The Landlord states that the door was 3 years old at the onset of the tenancy. The Landlord provides photos of the garage door taken at move-out. The Landlord states that the top panel has stone sized dings and that the middle panel has 3 dings. The Landlord states that the dings were not present at move-in and that the Tenant's children may have caused them with skateboards or hockey pucks. The Landlord states that she replaced all four panels on March 7, 2017, that there were no subsequent tenancies and that the house was sold with possession date on May 31, 2017. The Landlord claims \$1,278.00. The Landlord states that she is not claiming the cost of a remote as the Tenants have already paid for this cost.

The Tenant states that the children did not have pucks and that their scooter and bikes could not have damaged the upper panels. The Tenant states that they did not agree

that the upper panels had damage beyond normal wear and tear and that the Landlord accepted their offer to pay for only the lower panel and they agreed that she could make this deduction as set out above. The Tenant states that the agreed upon retained amount included \$54.00 for the loss of the remote.

Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. No dints can be made out on the photo of at least one upper panel. The photos show dents on the bottom panel. There is no evidence that the garage door would not operate as a result of any of the dints. Given this evidence I find that there was only cosmetic damage to the doors and that such damage would not require its replacement. I find therefore that the Landlord has not substantiated that the Tenant's caused the costs claimed. Further, the Landlord accepted an amount of money for the damage to the lower panel. I find that this amount more than generously compensates the Landlord for the cosmetic damage and I therefore dismiss the Landlord's claim for a larger amount. As the Landlord's claim has not met with success I dismiss the claim for recovery of the filing fee and in effect the application is dismissed in its entirety.

Conclusion

The application is dismissed.

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: July 07, 2017

Residential Tenancy Branch