



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TWENTY ONE HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: *MNSD, MND, FF*

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order to recover the cost of cleaning and painting and for the filing fee. The landlord also applied to retain a portion of the security deposit in satisfaction of his claim.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord was represented by their agent.

As both parties were in attendance I confirmed service of documents. The tenant confirmed receipt of the landlord's application for dispute resolution and evidence. The landlord said that he had not received any evidence from the tenant. The tenant stated that she had uploaded her evidence to her electronic file and was under the impression that the landlord had the ability to view it. The tenant confirmed that she did not mail a copy of her evidence to the landlord.

Accordingly the tenant's evidence was not used in the making of this decision. I find that the tenant was served with the landlord's materials in accordance with sections 88 and 89 of the *Act*.

Issues to be decided

Has the landlord established a claim against the security deposit and if so in what amount? Is the landlord entitled to the recovery of the filing fee?

Background and Evidence

The tenancy started on July 01, 2017 and ended on June 29, 2018. The monthly rent was \$1,800.00. Prior to moving in the tenant paid a security deposit of \$900.00. On June 29, 2018, a move out inspection was carried out and a report was filed into evidence.

The tenant agreed that during the tenancy, she had requested the landlord for a paint chip to purchase matching paint in order to repair some damage to the walls. The landlord stated that during the move out inspection he found stains on the living room wall and the front entry wall. The landlord filed photographs of the damage to the walls and a receipt in the amount of \$52.50 for paint touch up and cleaning.

The move out inspection report confirms the landlord's testimony regarding the discrepancies in the condition of the rental unit. During the move out inspection, the landlord pointed out the damage to the tenant and recorded it in the report. The tenant refused to take responsibility for the damage and the parties were unable to come to an agreement.

The tenant provided the landlord with her forwarding address during the inspection on June 29, 2018. The landlord made this application on July 09, 2018.

The landlord is claiming the cost of painting and cleaning in the amount of \$52.50 and is also claiming the recovery of the filing fee of \$100.00

Analysis

The tenant denied having caused damage to the walls and the landlord testified that the tenant was responsible for the cost of cleaning and touching up the paint.

As explained to the parties during the hearing, the onus or burden of proof is on the party making a claim to prove the claim. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

The evidence of the landlord consists of a move out inspection report, photographs and an invoice. I find that the landlord has provided sufficient evidence to support his claim of \$52.50 for the cost of cleaning and painting

Based on the documents filed into evidence and the testimony of both parties, I find that the landlord made this application in a timely manner and has proven that the tenant is liable for the damage to the walls. Therefore the landlord's claim for the cost of cleaning and painting in the amount of \$52.50 is granted.

Since the landlord is successful in proving his claim, I award the landlord the recovery of the filing fee of \$100.00.

I order that the landlord to retain \$152.50 from the security deposit and return the balance of \$747.50 to the tenant. I grant the tenant an order under section 67 of the *Residential Tenancy Act* for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of **\$747.50**.

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: November 08, 2018

Residential Tenancy Branch