



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNDL-S

Introduction

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

- a monetary order 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
- an order authorizing the landlord the recovery of the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant acknowledged receipt of evidence submitted by the landlord. The tenant did not submit any documentation for this hearing.

Issue to be Decided

Is the landlord entitled to a monetary award for damage arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to the recovery of the filing fee?

Background, Evidence

NA testimony is as follows. The tenancy began on June 15, 2017 and ended on October 15, 2018. The tenant was obligated to pay \$1100.00 per month in rent in advance and at the outset of the tenancy the tenant paid a \$550.00 security deposit

which the landlord still holds. The suite was brand new when the tenant moved in. Written condition inspection reports were conducted at move in and move out. The landlord testified that the tenant left the unit dirty and damaged at move out. The landlord testified that the tenants damaged walls that required painting, damaged an air diffuser, had to install a new deadbolt as the tenants did not return the keys, had to steam clean the carpets, clean appliances, clean exterior window screens, and repair damage to bathtub and door frame.

The landlord is applying for the following:

1.	Painting living room and bedroom	\$650.00
2.	Air Diffuser	15.78
3.	Install new dead bolt	61.40
4.	Carpet cleaning	105.00
5.	Appliance cleaning and supplies	45.59
6.	Repair Bath tub, door jamb and frame	399.34
7.	Exterior Window cleaning	35.00
8.	Canada Post and Photo fees	20.59
9.	Remove and Install New Carpet Estimate	555.87
10.	Filing fee	100.00
	Total	\$1988.57

The tenant gave the following testimony. The tenant testified that he disputes the landlords' entire claim and wants his deposit back. The tenant testified that he didn't cause the damage as claimed.

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 and my findings as follows.

Claim #1 as listed on the table.

The landlord is seeking \$650.00 for painting the walls in two separate rooms. The landlord provided photos, receipts' and the condition inspection report to support his claim. Policy Guideline 40 addresses the useful life of building elements and lists paint as having 4 year expectancy. The landlord advised that the paint was 22 months old when the tenant moved out. I find that the prorated amount for the remaining 26 months is \$352.08 and grant the landlord that amount.

Claim #2-6 as listed on the table.

As noted above, the landlord incurred these costs as a result of the tenants' actions. The landlord provided receipts, the condition inspection report and photos to support their claim. The tenant acknowledged that he signed the condition inspection report in an attempt "to get my money", but then later changed his testimony stating that the signature on the form was not his. The tenant contradicted and changed his testimony several times during the hearing. I found the tenant to be unreliable and gave little weight to his testimony. Based on the evidence before me and on a balance of probabilities, I find that the landlord is entitled to the full amount of items 2-6 on the table in the amount of \$627.11.

Claim #7 as listed on the table.

Policy Guideline 1 lists that exterior window cleaning is the responsibility of the landlord; accordingly, I dismiss that portion of the landlords claim.

Claim #8, 10 as listed on the table.

The Act only allows the recovery of the filing fee as hearing related costs, as such; I find that the landlord is entitled to the recovery of the \$100.00 filing fee, but I dismiss the claim for postage and printing photos.

Claim #9 as listed on the table.

The landlord advised that he has not undertaken this work and that it is only a quote. As the landlord has not incurred any out of pocket costs for this claim, they have not provided sufficient evidence to show what actual loss was incurred; accordingly I dismiss this portion of their application.

Conclusion

The landlord has established a claim for \$1079.19. I order that the landlord retain the \$550.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$529.19. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: February 22, 2019

Residential Tenancy Branch