



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL, MNDCL, MNRL, OL, FFL

Introduction

On August 7, 2020, the Landlords made an Application for Dispute Resolution seeking a Monetary Order for compensation pursuant to Section 67 of the *Act*, seeking to apply the security deposit towards this debt pursuant to Sections 38 and 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

Both Landlords and the Tenant attended the hearing. All parties in attendance provided a solemn affirmation.

The Landlords advised that they served the Tenant with the Notice of Hearing package by email on August 12, 2020, pursuant to the Substituted Service Decision dated August 10, 2020. The Tenant confirmed that she received this package. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant has been served the Notice of Hearing package.

They also advised that they served the Tenant with their documentary evidence, including a video, by email on November 5, 2020. They did not confirm with the Tenant if she could view the video evidence prior to sending it, in accordance with Rule 3.10.5 of the Rules of Procedure. The Tenant advised that she received the Landlord's evidence, but she did not receive a video attachment. As the Landlords did not check to see if the Tenant could view the video pursuant to the Rules of Procedure, I have excluded this video and will not consider it when rendering this Decision. However, the Landlords' documentary evidence is accepted and will be considered when rendering this Decision.

The Tenant advised that she served her evidence to the Landlords on November 12, 2020 and they confirmed that they received this package. As such, the Tenant's evidence is accepted and will be considered when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me;

however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Are the Landlords entitled to a Monetary Order for compensation?
- Are the Landlords entitled to apply the security deposit towards this debt?
- Are the Landlords entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on July 7, 2019 and ended when the Tenant abandoned the rental unit on June 28, 2020. Rent was established at \$1,100.00 per month and was due on the first day of each month. A security deposit of \$550.00 was also paid. A signed copy of the tenancy agreement was submitted as documentary evidence.

All parties agreed that a move-in inspection report was conducted on July 7, 2019 and a move-out inspection report was not conducted as the Tenant abandoned the rental unit.

As well, all parties agreed that the Tenant never provided a forwarding address in writing.

The Landlords advised that they are seeking compensation in the amount of **\$550.00** for a loss of rent from July 1 to July 15, 2020. Given that the Tenant abandoned the rental unit, they worked hard to clean the unit and to re-rent it in July 2020 to reduce the amount of loss of rent that they could have sought back from the Tenant. As they were able to re-rent the unit on July 16, 2020, they are only seeking compensation in the amount of half a month's rent.

The Tenant did not contest this claim.

The Landlords advised that they are seeking compensation in the amount of **\$175.00** for half of the bill of a bed bug treatment conducted by an exterminator. They stated that the Tenant agreed to pay for half this cost, as confirmed in a text message. They submitted a copy of this invoice to support this claim.

The Tenant acknowledged that she agreed to pay for half of this pest control bill.

The Landlords advised that they are seeking compensation in the amount of **\$41.00** for the cost of a dump fee because the Tenant also abandoned a substantial amount of her property in the rental unit. They stated that the freezer and fridge were still full of food, that the cupboards were full of food, and that a couch, mattress, box spring, furniture, books, and other items were all left behind. They were not sure of the total value of these items.

The Tenant did not dispute that she left these items in the rental unit.

The Landlords advised that they are seeking compensation in the amount of **\$54.10** for the cost of outstanding utilities. They asked the Tenant to pay these arrears and she agreed to it.

The Tenant acknowledged that she owes for these utilities.

The Landlords advised that they are seeking compensation in the amount of **\$250.00** because there was damage and many holes in the walls; however, they were not sure how many holes were left. They stated that the Tenant installed a curtain rod which created $\frac{3}{4}$ inch holes in the walls that needed to be repaired. As per the move-in inspection report, the walls were freshly painted at the start of the tenancy. They advised that they hired a painter to fix the damage and this person spent approximately 1 $\frac{1}{2}$ days to mud, sand, and re-paint the damaged areas. They submitted an invoice as documentary evidence to support this claim.

The Tenant advised that she tried not to damage the walls and she hung items with command strips. She referenced her pictures submitted as documentary evidence to support her position on this point. She stated that there were holes in the walls at the start of the tenancy and that it is up to the Landlords to do touch ups to the rental unit at the end of the tenancy.

The Landlords advised that they are seeking compensation in the amount of **\$75.00** because the painter used approximately three gallons of paint that the Landlords supplied. They estimated that the paint used would cost \$25.00 per gallon.

The Tenant advised that there was no evidence of how much paint was used or how much it cost.

The Landlords advised that they are seeking compensation in the amount of **\$300.00** to cover their time to dispose of garbage and refuse that the Tenant left in the rental unit at the end of the tenancy. They stated that it took two of them approximately six hours to dispose of all these items, so that would work out to \$25.00 per hour, per person.

The Tenant advised that she did not have any submissions with respect to this claim, and she acknowledged that she forfeited any claim to her property that she left behind.

The Landlords advised that they are seeking compensation in the amount of **\$250.00** because the Tenant did not leave the rental unit in a re-rentable condition at the end of the tenancy. They stated that nothing was wiped or cleaned, that the fridge and freezer were full, and that the oven was not cleaned. In addition, the walls, window tracks, heating vents, bathroom, and toilet were all not cleaned. They did the cleaning themselves and it took them approximately two full days to return the rental unit to a re-rentable state.

The Tenant agreed to this cleaning fee and that she left the fridge a mess. However, she attempted to clean "as much as possible."

Finally, the Landlords advised that they are seeking compensation in the amount of **\$183.75** because the Tenant did not shampoo the carpet at the end of the tenancy. They stated that the carpet was brand new at the start of the tenancy, that it was never vacuumed, and that there was no effort made to clean it. In addition, as it was sprayed with chemicals on account of the bed bug treatment, it required being shampooed.

The Tenant advised that if it needed to be shampooed because of the bed bug treatment, she should not be responsible for this cost. She stated that she left a vacuum behind, so clearly she vacuumed the carpet regularly, but she did not shampoo it at any time during the tenancy. She stated that she is not sure how the bed bugs got into the rental unit as she has worked from home since March 2020 and no one has come to visit her except her partner. She submitted that she first noticed what she believed to be hives in April 2020 and only discovered that she had bed bugs later. She reported to the

Landlords that she had bed bugs in June 2020. She referenced pictures of the bed bugs and bites to support her position.

The Landlords advised that the Tenant's partner did not visit, but moved into the rental unit early in 2020. In 30 years of being Landlords, they have had no other reports of bed bugs and have not had any reported incidents since this one. They questioned why the Tenant only reported the bed bugs in June 2020 if she had bites as early as March 2020. They stated that once they were informed by the Tenant of the presence of bed bugs on June 18, 2020, they booked an exterminator an hour later.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 38(1) of the *Act* requires the Landlords, within 15 days of the end of the tenancy or the date on which the Landlords receive the Tenant's forwarding address in writing, to either return the deposit in full or file an Application for Dispute Resolution seeking an Order allowing the Landlords to retain the deposit. If the Landlords fail to comply with Section 38(1), then the Landlords may not make a claim against the deposit, and the Landlords must pay double the deposit to the Tenant, pursuant to Section 38(6) of the *Act*.

However, based on the undisputed evidence before me, the Tenant never provided a forwarding address in writing. As such, the requirements of the *Act* with respect to dealing with the security deposit do not apply in this instance.

With respect to the Landlords' claims for damages, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, "It is up to the party who is claiming compensation to provide evidence to establish that compensation is due", that "the party who suffered the damage or loss can prove the amount of or value of the damage or loss", and that "the value of the damage or loss is established by the evidence provided."

Regarding the Landlords' claim of compensation in the amount of \$550.00 for the loss of rent from July 1 to July 15, 2020, as the Tenant did not provide any submissions with

respect to this issue, I am satisfied that she did not end the tenancy in accordance with the *Act* as she abandoned the rental unit. Furthermore, the consistent and undisputed evidence is that as a result of the Tenant's actions, the Landlords suffered a rental loss. As a result, I grant the Landlords a monetary award in the amount of **\$550.00** satisfy this claim.

With respect to the Landlords' claim for compensation in the amount of \$175.00 for half of the bill of a bed bug treatment, as the Tenant acknowledged that she agreed to pay for half of this pest control bill, I grant the Landlords a monetary award in the amount of **\$175.00** satisfy this claim.

Regarding the Landlords' claim of compensation in the amount of \$41.00 for the cost of the dump fee, as the Tenant confirmed that she left her property behind for the Landlords to dispose of, I grant the Landlords a monetary award in the amount of **\$41.00** satisfy this claim.

With respect to the Landlords' claim for compensation in the amount of \$54.10 for the cost of outstanding utilities, as the Tenant acknowledged that she owes for these utilities, I grant the Landlords a monetary award in the amount of **\$54.10** satisfy this debt.

Regarding the Landlords' claim of compensation in the amount of \$250.00 due to the damage and holes in the walls, I find it important to note that the burden of proof is on the party making the Application to substantiate a claim. I have before me a move-in inspection report which does not indicate that there were holes in the walls at the start of the tenancy. Furthermore, it indicates that the rental unit was freshly painted. However, the Landlords were not sure how many holes were left at the end of the tenancy and only spoke specifically of a few sizable holes created by a curtain rod that the Tenant installed.

In contrast, the Tenant claimed that she made her best effort not to put holes in the walls and she submitted pictures to demonstrate this. She also claimed that there were holes in the walls from the previous tenant. However, she did confirm that she installed a curtain rod, which created some holes in the walls.

When weighing the evidence before me, based on the documents presented by the Landlords, I do not find that they corroborated that there were many holes left in the walls. However, given the manner with which the Tenant abandoned the rental unit and the condition that she left it in with all the property left behind, I find it more likely than

not that she would not have treated the rental unit with as much care as is expected from a Tenant. Based on this, and the large holes left by the curtain rod, I am satisfied that the Landlords have substantiated a claim in the amount of **\$100.00** only for this issue.

With respect to the Landlords' claim of compensation in the amount of \$75.00 for the paint that was used, as I have determined above that the Landlords have only corroborated a portion of the painting cost, I grant the Landlords a monetary award in the amount of **\$25.00** to cover the cost of the paint used.

Regarding the Landlords' claim for compensation in the amount of \$300.00 to cover their time to dispose of garbage and refuse that the Tenant left in the rental unit at the end of the tenancy, as the Tenant acknowledged that she left a considerable amount of property behind and that she forfeited any claim to it, I am satisfied that the Landlords were forced to deal with this problem. Consequently, I grant the Landlords a monetary award in the amount of **\$300.00** to remedy this issue.

With respect to the Landlords' claim of compensation in the amount of \$250.00 because the Tenant did not leave the rental unit in a re-rentable condition at the end of the tenancy, while the Tenant claimed that she cleaned the rental unit "as much as possible", given that she abandoned the rental unit, that she left a considerable amount of property behind, and that she agreed that she left the fridge a mess, I am doubtful that there was much time spent by the Tenant cleaning the rental unit. I find it more likely than not that her claim of cleaning "as much as possible" amounted to very little, if any cleaning at all. As such, I grant the Landlords a monetary award in the amount of **\$250.00** to rectify this claim.

Finally, regarding the Landlords' claim of compensation in the amount of \$183.75 because the Tenant did not shampoo the carpet at the end of the tenancy, I find it important to note that there have been no reports of bed bugs other than in the rental unit. As such, I find it more likely than not that the bed bugs were present based on the Tenant's negligence.

In addition, Policy Guideline # 1 states that "Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year." The Tenant abandoned the tenancy just prior to the one-year mark, and if she had ended the tenancy properly and in accordance with the *Act*, her tenancy would have lasted at least a year anyways. Given both of these factors, I am satisfied that the Tenant should be responsible for the shampooing of the carpets. As

such, I grant the Landlords a monetary award in the amount of **\$183.75** to satisfy this claim

As the Landlords were successful in this Application, I find that the Landlords are entitled to recover the \$100.00 filing fee paid for this Application. Pursuant to Section 67 of the *Act*, I allow the Landlords to retain the security deposit in satisfaction of this debt outstanding.

Pursuant to Sections 38, 67, and 72 of the *Act*, I grant the Landlord a monetary award as follows:

Calculation of Monetary Order Payable by the Tenant to the Landlords

Rental arrears for July 2020	\$550.00
Half of bed bug treatment	\$175.00
Dump fees	\$41.00
Utilities owed	\$54.10
Painting	\$100.00
Paint materials	\$25.00
Disposal of refuse	\$300.00
Cleaning fee	\$250.00
Carpet cleaning	\$183.75
Recovery of filing fee	\$100.00
Security deposit	-\$550.00
TOTAL MONETARY AWARD	\$1,228.85

Conclusion

I provide the Landlords with a Monetary Order in the amount of **\$1,228.85** in the above terms, and the Tenant must be served with **this Order** as soon as possible. Should the Tenant 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.

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 27, 2020