



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, MNDL-S, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord under the Residential Tenancy Act (the “*Act*”) for a monetary order for damages and compensation, permission to retain the security deposit and an order to recover the cost of filing the application. The matter was set for a conference call.

Two Agents for the Landlord (the “Landlord”) attended the hearing and were each affirmed to be truthful in their testimony. As the Tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. Section 59 of the *Act* and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified that the documents were sent by registered mail on May 13, 2021, a Canada Post tracking number was provided as evidence of service. Section 90 of the *Act* determines that documents served in this manner are deemed to have been served five days later. I find that the Tenants have been duly served in accordance with the *Act*.

The Landlord was provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing. Both parties were advised of section 6.11 of the Residential Tenancy Branches Rules of Procedure, prohibiting the recording of these proceedings.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary Matter – Issue Withdrawn

During the hearing, the Landlord withdrew their request for \$200.00 in strata fines, stating that the strata council waved the fines.

I will proceed with this hearing on the Landlord's remaining monetary claim.

Issues to be Decided

- Is the Landlord entitled to monetary order for damage and compensation under the *Act*?
- Is the Landlord entitled to retain the security deposit for this tenancy?
- Is the Landlord entitled to recover the filing fee for this application?

Background and Evidence

While I have considered all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The tenancy agreement records that this tenancy began on April 29, 2021, as a one-year fixed term tenancy that rolled into a month-to-month tenancy at the end of the initial fixed term. Rent in the amount of \$2,350.00 was to be paid by the first day of each month, and the Landlord had been given a \$1,175.00 security deposit at the outset of the tenancy. The Landlord provided a copy of the tenancy agreement into documentary evidence.

The Landlord testified that they conducted the move-out inspection with the Tenants on April 30, 2021, the last day of this tenancy. The Landlord provided a copy of the move-in/move-out inspection report into documentary evidence.

The Landlord is requesting \$150.00 for carpet cleaning the rental unit after the Tenants moved out, \$157.50 in junk removal, \$168.00 to repair a broken window blind and \$101.67 in Canada post mailing costs.

The Landlord testified that the Tenants returned with rental unit with dirty carpets at the end of the tenancy. The Landlord testified that it cost them \$150.00 to have the carpets cleaned and submitted three pictures of the carpet at the end of the tenancy and an invoice for the carpet cleaning into documentary evidence.

The Landlord testified that when the Tenants moved out, they left several large items by the building trash bins that were noted by the strata council and charged to the Landlord for disposal. The Landlord testified that they were charged \$157.50 due to the Tenant's actions and that they are seeking to recover those funds. The Landlord submitted two letters from the building strata council into documentary evidence.

The Landlord testified that when the Tenants moved out, they returned the rental unit with a damaged set of window blinds at the end of the tenancy, and that it cost them \$168.00 to have them repaired. The Landlord submitted an invoice for the blind repair into documentary evidence.

The Landlord testified that it cost them \$101.61 in postage costs to mail documents related to these proceedings to the Tenants. The Landlord requested to recover these funds and submitted three Canada Post invoices into documentary evidence.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

The Landlord has claimed compensation for the loss in the amount of \$577.11. Awards for compensation due to damage are provided for under sections 7 and 67 of the *Act*. A party that makes an application for monetary compensation against another party has the burden to prove their claim. The Residential Tenancy Policy Guideline #16 Compensation for Damage or Loss provides guidance on how an applicant must prove their claim. The policy guide states the following:

“The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. To determine whether compensation is due, the arbitrator may determine whether:

- A party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- Loss or damage has resulted from this non-compliance;
- The party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- The party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

I accept the testimony of the Landlord supported by the picture evidence and move-out inspection that the rental unit was returned to the Landlord with dirty carpets and a damaged window blind. Section 37(2) of the *Act* requires that a tenant return the rental unit reasonably clean at the end of the tenancy.

Leaving the rental unit at the end of a tenancy

37 (2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and*
- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.*

I find that the Tenants breached section 37 of the *Act* when they returned the rental unit to the Landlord uncleaned and damaged. I have reviewed the invoice for the window blind repair and find that the Landlord did suffer a loss of \$168.00 to have the window blind repaired at the end of the tenancy. Therefore, I award the Landlord the recovery of their repair costs in the amount of \$168.00 for the window blind.

However, I have reviewed the Landlord's invoice for the carpet cleaning and noted that the value of this invoice does not match the claimed amount. Consequently, I dismissed the Landlord's claim for the recovery of their cost for carpet cleaning.

The Landlord has claimed for \$157.50 in trash removal, I have reviewed the Landlord documentary evidence, and I find that the Tenants breached section 37 of the *Act* when they returned the rental unit to the landlord, leaving furniture, and other discarded large items in a common area of the strata building. After my review of the invoice for the trash removal, I find that the Landlord did suffer a loss of \$157.50 due to the Tenant's breach of the *Act* at the end of the tenancy. Therefore, I award the Landlord the recovery of their costs in the amount of \$157.050 for trash removal.

The Landlord has also claimed for compensation for Canada Post fees for costs to mail documents related to these proceedings to the Tenants. With the exception of compensation for filing the Application for Dispute Resolution, the *Act* does not permit a party to claim for compensation for other costs associated with participating in the dispute resolution process. Therefore, I dismiss the Landlord's claim to recover Canada post fees.

Finally, section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord has been successful in their application, I find the Landlord is entitled to recover the filing fee for their applications, in the amount of \$100.00.

Overall, I award the Landlord **\$425.50**, consisting of \$168.00 for blind repair, \$157.50 for trash removal, and \$100.00 in the recovery of their filing fee for this application.

I grant the Landlord permission to retain \$425.50 from the security deposit they are holding for this tenancy in full satisfaction of the award contained in this Decision.

I order the Landlord to return the remainder of the Tenant's security deposit, in the amount of \$749.50, for this tenancy to the Tenants within 15 days of receiving this decision.

If the Landlord fails to return the security deposit to the Tenants as ordered, the Tenants may file for a hearing with this office to recover their security deposit for this tenancy. The Tenants are also granted leave to apply for the doubling provision pursuant to Section 38(6b) of the *Act* if an application to recover their security deposit is required.

Conclusion

I find for the Landlord under sections 67 and 72 of the *Act* and award the \$425.50.

I grant the Landlord permission to retain \$425.50 from the security deposit for this tenancy in full satisfaction of the award contained in this decision.

I order the Landlord to return the remainder of the Tenants' security deposit, in the amount of \$749.50 to the Tenants within 15 days of receiving this decision.

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 19, 2021

Residential Tenancy Branch