



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CARLTON MANOR
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S, MNDCL-S, FFL

Introduction

The Landlord filed an Application for Dispute Resolution (the “Application”) on December 15, 2021 seeking an order to recover the money for damages to the rental unit, and other money owed. Additionally, the Landlord seeks to recover the filing fee for the Application. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on July 21, 2022. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The Landlord attended the telephone conference all hearing; the Tenant did not attend.

Preliminary Matter

To proceed with this hearing, I must be satisfied that the Landlord made reasonable attempts to serve the Tenant with this Notice of Dispute Resolution Proceeding. This means the Landlord must provide proof that they served the document at a verified address allowed under s. 89 of the *Act*, and I must accept that evidence.

In the hearing, the Landlord stated they served the Notice of the Dispute Resolution Proceeding in person to the Tenant at the Tenant’s new place of residence. This was based on the Landlord’s own investigation into the Tenant’s locale after the end of the tenancy. This included the evidence they prepared for this hearing. After this, the Tenant had contact with the Landlord, leaving a message on the Landlord’s phone to inform them that they would attend at the hearing.

I accept the Landlord's evidence that they served the Notice, including their evidence, to the Tenant in person. This is sufficient for the purposes of the *Act*. Based on the submissions of the Landlord, I accept they served notice of this hearing and their evidence in a manner complying with s. 89(1)(c) of the *Act*, and the hearing proceeded in the Tenant's absence.

Issue(s) to be Decided

- Is the Landlord entitled to a monetary order for recovery of rent, and/or other money owing, pursuant to s. 67 of the *Act*?
- Is the Landlord entitled to recover the filing fee for this Application pursuant to s. 72 of the *Act*?

Background and Evidence

The Landlord provided a copy of the tenancy agreement and spoke to its relevant terms in the hearing. Both parties signed the tenancy agreement on October 25, 2020 for the tenancy starting on November 1, 2020. This was for a one-year timeframe, then reverted to a month-to-month agreement after that. The monthly rent amount was \$950, payable on the 1st of each month. The tenant paid a security deposit of \$475.

In the hearing, the Landlord set out that the tenancy ended on November 30, 2021. This was a mutual agreement between the parties; however, the discussions became negative, amounting to an ongoing argument, about the move-out and the cleanliness of the rental unit. The Tenant did not respond to the Landlord's enquiries on rent amounts owing; moreover, they left the rental unit in an unclean state.

The LL presented that there was a condition inspection meeting at the start of the tenancy. This is documented in their evidence; however, the portion showing the condition at the start of the tenancy contains no detail added. The recorded date for that move-in meeting is November 1, 2020.

The Tenant left sometime in November and did not return to the rental unit. The Landlord testified that they offered the opportunity for a move-out meeting; however, the Tenant did not respond or attend, and the Landlord inspected the rental unit unilaterally on November 30. The Tenant left the keys for the rental unit on the kitchen floor, as discovered by the Landlord.

The Report for the move-out lists “dirty/stained” for virtually every room/space in the rental unit. There was a missing shower head and food left behind in the kitchen.

The Landlord also described the occurrences of no rent payments from the Tenant, from October 2021 through to February 2022. The Tenant would say their phone was not working, or they had to go to the bank – these were examples of reasons stated by the Tenant to the Landlord for no rent payments. The Landlord pursued dispute resolution in 2021, and for this the Tenant paid the months of August and September in full as specified by that decision.

The Landlord’s total claim for compensation is \$1,400.35. This is set out on their Monetary Order Worksheet that they prepared on December 15, 2021.

#	Items	\$ claim
1	Glass replacement	883.58
2	Cleaning labour charges	294.00
3	Cleaning labour charges	136.00
4	Roller set (painting) plus garbage bags	35.85
5	Waste removal	33.50
6	Cleaning supplies	17.32
Total		1,400.35

Adding a \$100.00 Application filing fee for this hearing, the total amount of the Landlord’s claim is \$1,500.25.

The Landlord provided the following additional evidence:

- Images of the broken window glass in question – the Landlord did not know the exact date of the glass breakage
- An invoice for supply/installation of replacement glass – totalling \$883.58, dated December 10, 2021
- An invoice for 8 hours of cleaning at \$35 for the total of \$294 on December 2
- A similar invoice for \$136, based on an hourly rate of \$17 for 8 hours of labour on December 2
- A receipt for the purchase of paint rollers and garbage bags dated December 3, 2021
- A receipt and ticket showing “residential” waste and a mattress dated December 13, 2021 from the local municipality – presumably this is for waste removal, totalling \$33.50

In sum, the Landlord established a claim total of \$1,177.58.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in s. 7 and s. 67 of the *Act*.

To be successful in a claim for compensation for damage or loss the Applicant (here, the Landlord) has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

On my review of the evidence provided, I award the following amounts:

- The total of \$883.58 for broken glass replace – I find the invoice shows the work and materials needed for the broken glass shown in the photo of the broken window which the Landlord submitted. I find it more likely than not that this occurred during the latter stages of the tenancy, and the Landlord established this damage as coming from the Tenant. This is beyond reasonable wear and tear that is acceptable for a rental unit as per s. 37 of the *Act*.
- Because the Condition Inspection Report shows the Landlord's *record* of the need for cleaning, I award a partial amount of their claimed total for cleaning charges. Given the broken glass and the description of the Tenant essentially abandoning the rental unit, I find it more likely than not that the cleaning proved problematic for the Landlord, and was something beyond the s. 37 requirement. I award \$294 for the claimed cleaning charges to the Landlord. I dismiss the Landlord's additional claims for cleaning because of the lack of photo evidence to give a true picture of the rental unit. I dismiss the Landlord's claim for cleaning supplies for this same reason.
- I am not satisfied of the need for waste removal or garbage bags or rollers needed for painting (with no paint purchased), with no photos showing that. I am not fully satisfied this damage or loss existed and was not depicted on the Condition Inspection Report.

In sum, I find the Landlord has established a claim total of \$1,177.58.

The Landlord has properly made a claim against the security deposit and has the right to do so. The Landlord is holding this amount of \$475. I order this amount deducted from the total of the established claim total of \$1,177.58. Reducing the damages total by \$475 brings the total monetary order to \$702.58.

Because the landlord was moderately successful in their Application, I grant the reimbursement of \$50 of the \$100 Application filing fee.

Conclusion

Pursuant to s. 67 and s. 72 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$752.58 for compensation set out above. The Landlord is provided with this Order 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, the Landlord may file this Order in the Small Claims Division of the Provincial Court where it will be 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 s. 9.1(1) of the *Act*.

Dated: July 22, 2022

Residential Tenancy Branch