



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing was convened in response to an application by the Landlord and an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”).

The Landlord applied on July 15, 2022 for:

1. A Monetary Order for damage to the unit - Section 67;
2. An Order to retain the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenant applied on July 21, 2022 for:

1. An Order for the return of the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Preliminary Matter

The Landlord CC confirms that they are the same person as Landlord HFC named in the Tenant’s application and the tenancy agreement and that HFC is the Landlord’s legal name. The Tenant clarifies that their name as set out in both applications and the tenancy agreement is not their full name. The Parties agrees to amend both applications to set out the legal name of the Tenant as provided by the Tenant.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Tenant entitled to return of the security deposit?

Are the Parties entitled to recovery of their filing fees?

Background and Evidence

The following are agreed or undisputed facts: The tenancy under written agreement started March 31, 2020 with the Tenant moving in earlier. The tenancy ended on June 30, 2022. Rent of \$2,639.00 was payable on the first day of each month. On February 17, 2020 the Landlord collected a security deposit of \$1,300.00. The Parties mutually conducted a move-in inspection with a completed report copied to the Tenant. The Parties conducted a mutually agreed upon inspection on June 30, 2022 with a move-out report completed. The Tenant did not agree with the move-out report. The Landlord informed the Tenant that another inspection was required and on July 10, 2022 the Parties again inspected the unit with the same report outcome and Tenant's disagreement.

The Tenant does not dispute the Landlord's claim for \$548.76 for damages to the garage. The Tenant claims the return of the remaining security deposit of \$731.24.

The Landlord states that the Tenant left the walls of the unit damaged requiring repairs and paint. The Landlord claims the costs of \$1,680.00 and provides an invoice. The Landlord states that the unit was last painted 4 years before the start of the tenancy. The Landlord also states that the unit was painted less than 4 years before the start of the tenancy. The Landlord confirms that the invoice does not detail any damages repaired. The Parties each provide photos or videos of the state of the unit at move-out.

The Landlord states that the Tenant failed to leave the unit clean and claims \$120.00. The Landlord provides photos and an invoice. The Landlord states that the cleaners

cost \$70.00 per hour for 2 cleaners and 2 hours of cleaning. The Tenant states that they hired professional cleaners for the move-out clean and left the unit more than reasonably clean. The Tenant provides an invoice. The Landlord states that they expect the Tenant to leave the unit clean enough for the next tenant and that if they have not left it to the Landlord's standard, which the Landlord believes is reasonable and normal, then the Landlord must get the extra cleaning done.

Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. As the Tenant does not dispute the Landlord's claim of **548.76** for damages to the garage, I find that the Landlord is entitled to this amount.

Given the Tenant's supported evidence of the state of the walls at move-out, I find on a balance of probabilities that the Landlord has not substantiated that the Tenant caused damage beyond reasonable wear and tear to the walls. Further, as the walls were last painted some 6 years before the end of the tenancy, I find on a balance of probabilities that the paint was past its useful life by the end of the tenancy and that the Landlord is therefore responsible for the costs to maintain or repair the paint on the walls. I dismiss the Landlord's claim for \$1,680.00.

Given the Tenant's supported evidence of cleaning the unit I find on balance of probabilities that the unit was left reasonably clean. Any higher standard of cleaning remains at the Landlord's option and own cost. I therefore dismiss the Landlord's claim for \$120.00.

As the Landlord's claims that were not disputed by the Tenant were unsuccessful I find that the Landlord is only entitled to recovery of half the filing fee in the amount of **\$50.00**

for a total entitlement of **\$596.76**. Deducting this amount from the security deposit plus interest of **\$1,307.58** leaves **\$710.82** remaining for return to the Tenant. As the Tenant has been successful with its claim for the return of the security deposit, I find that the Tenant is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$810.82** to be paid by the Landlord.

Conclusion

I Order the Landlord to retain **\$596.76** from the security deposit plus interest of **\$1,307.58** in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for **\$810.82**. If necessary, 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 Act.

Dated: April 19, 2023

Residential Tenancy Branch