



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MILLBRIDGE HOUSE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, FF, O

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; Other issues; and to recover the filing fee from the tenants for the cost of this application.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*; served by registered mail on August 01, 2014. Canada Post tracking numbers were provided by the landlord in documentary evidence for each of the tenants. The tenants are deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord's agent appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

The landlord's agent testified that this fixed term tenancy of one year began on January 20, 2014 and was due to end on January 31, 2015. Rent was payable under a written tenancy agreement in the amount of \$875.00 on the first day of each month. The matter of the security deposit was dealt with at a previous hearing.

The landlord's agent testified that they had successfully applied for an Order of Possession of the rental unit after the tenants failed to pay rent. An Order of Possession was issued at a Direct Request Proceeding and this was subsequently served to the tenants. The tenants failed to give the landlord vacant possession of the rental unit and the landlord had the Order of Possession enforced in the Supreme Court. The Supreme Court issued a writ of Possession and the Bailiffs arrived at the rental unit on March 24, 2014 and proceeded to evict the tenants.

The landlord's agent testified that the tenants were not present at the time so the bailiffs removed the tenant's belongings from the unit and these were put into storage. Later in the day the female tenant came back to the unit and was given the information pertaining to the whereabouts of their belongings. Due to the tenants failure to comply with the Order of Possession, the landlord incurred costs associated with the Bailiff fees of \$1,953.13. This amount has been paid by the landlord and receipts have been provided in evidence. The landlord seeks to recover this amount from the tenants.

The landlord's agent testified that the unit was not left clean by the tenants. The landlord's agent and her husband had to clean the entire unit and remove a large quantity of garbage from the unit. This work took 10 hours and the landlord seeks to recover the amount of \$250.00 for this work.

The landlord's agent testified that the landlord incurred costs in sending the hearing documents to the tenants by registered mail. The landlord seeks to recover the amount

of \$20.66 from the tenants. The landlord also seeks to recover the \$50.00 filing fee from the tenants.

Analysis

The tenants did not appear at the hearing to dispute the landlord's claims, despite having been given a Notice of the hearing as required under s. 89 of the *Act*; therefore, in the absence of any evidence from the tenants, I have carefully considered the landlord's undisputed documentary evidence and sworn testimony before me. I am satisfied that the landlord was issued with an Order of Possession and this Order was served upon the tenants. The tenants failed to comply with that Order and a Writ of Possession was gained through Supreme Court. I therefore find the landlords incurred costs which could have been avoided had the tenants complied with the Order of Possession served upon them. Consequently, I find the landlord is entitled to recover these additional costs incurred for the Bailiff fees of **\$1,953.13**.

In regard to the landlord's claim to recover cleaning and garage removal costs; s. 32(2) of the *Act* requires that a tenant maintains reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. It is clear from the evidence presented that the unit was not in a reasonably clean condition and that there were a large amount of garbage bags left in the unit. Consequently, I find the landlord is entitled to recover costs incurred to clean the unit and remove and dispose of any garbage in the unit. The landlord is therefore entitled to recover the amount of **\$250.00** from the tenants.

With regard to the landlord's claim to recover the cost of registered mail; there is no provision under the *Act* for costs of this nature to be awarded. This section of the landlord's claim is therefore dismissed.

As the landlord had a valid reason to make this Application to recover the money owed and compensation for damage or loss, I find that the landlord is also entitled to recover from the tenants the **\$50.00** filing fee for the cost of having to make this Application, pursuant to Section 72(1) of the *Act*.

Conclusion

For the reasons set out above, I grant the landlord a Monetary Order pursuant to Section 67 and 72(1) of the *Act* in the amount of **\$2,253.13**. This Order must be served on the tenants and may then be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court if the Tenants fail to comply with the Order.

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: January 26, 2015

Residential Tenancy Branch

