Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLUMBIA PROPERTY MANAGEMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed affirmed evidence. The tenants did not attend or submit any documentary evidence. The landlord stated that both the tenants were served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on February 18, 2016. The landlord has provided a copy of the Canada Post Customer Receipt Tracking numbers for both packages as confirmation of service. I accept the undisputed affirmed evidence of the landlord and find that both tenants have been properly served as per sections 88 and 89 of the Act. The tenants are deemed to have been served as per section 90 of the Act 5 days later.

During the hearing, the landlord stated that rental arrears had been paid and that an order of possession as no longer being sought. The landlord amended the monetary claim lowering from $2,595.25 to $181.25.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent, for money owed or compensation for damage or loss and recovery of the filing fee?
Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on June 1, 2015 on a fixed term tenancy ending on May 31, 2016 as shown by the submitted copy of the signed tenancy agreement dated May 26, 2015. The monthly rent is $1,050.00 payable on the 1st day of each month. A security deposit of $525.00 was paid on May 25, 2015.

The landlord seeks an amended monetary claim of $181.25 for:

$56.25	Maintenance Invoice
$125.00	Late Fee(s), 5 months (September-February)

The landlord clarified that in June of 2015 the tenant requested maintenance to attend to assess the bathroom light switch. The landlord stated that an appointment was made for maintenance staff to attend, but that the tenant was not present. The landlord notified the tenant of the "no show" by the tenant and advised them that a $56.25 charge would be assessed for non-attendance for the scheduled appointment. A subsequent appointment was made with the tenants to assess the bathroom light switch. The landlord relied upon the tenant ledger in which the $56.25 was charged to the tenants, but remains unpaid.

The landlord also provided details that on 5 occasions the tenants were late paying rent and were assessed a $25.00 late fee as provided in section "B Arrears" of the Addendum which provides for a $25.00 late payment fee. The landlord provided details that the tenants were late paying rent on September 8, 2015, October 5, 2015, November 5, 2015, January 5, 2016 and February 5, 2016.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the

party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the undisputed affirmed evidence of the landlord and find that a monetary claim of $181.25 has been established. The landlord has provided copies of the tenant ledger, signed tenancy agreement and undisputed evidence that the tenants were responsible for non-attendance at their requested maintenance call and that they were late paying rent on 5 different occasions between September 2015 and February 2016. The landlord has established a total monetary claim of $181.25.

The landlord is also entitled to recovery of the $100.00 filing fee.

Although the landlord has applied to retain all or part of the $525.00 security deposit, I decline to make such an order as the tenancy continues.

Conclusion

The landlord is granted a monetary order for $281.25.

This order must be served upon the tenants. Should the tenants 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: April 06, 2016

Residential Tenancy Branch