



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for unpaid rent, for damages to the unit and to recover the filing fee from the tenant.

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

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 the Application for Dispute Resolution and Notice of Hearing were sent by email on June 9, 2016 at 1:44 pm. The landlord stated on June 1, 2016, they were granted a substituted service order. Filed in evidence is a copy of the substituted service decision.

I find that the tenant has been duly served in accordance with the *Act*.

The landlord appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Are the landlords entitled to a monetary order for unpaid rent?

Are the landlords entitled to monetary compensation for damages?

Background and Evidence

The tenancy began on December 1, 2014. Rent in the amount of \$2,350.00 was payable on the first of each month. A security deposit of \$1,175.00 was paid by the tenant. The tenancy ended on or about May 21, 2016.

The landlords claim as follows:

a.	Unpaid rent for April and May 2016	\$ 3,280.00
b.	Unpaid water bill	\$ 219.76
c.	Dump fee	\$ 315.00
d.	Broken garage door opener	\$ 400.00
e.	Filing fee	\$ 100.00
	Total claimed	\$ 4,314.76

The landlord testified that the tenant only paid a partial payment of rent for April 2016, leaving a balance owed of \$930.00. The landlord stated no rent for May 2016, was paid. The landlords seek to recover unpaid rent in the amount of \$3,280.00.

The landlord testified that at the end of the tenancy they discover that the water had been turned off because the tenant did not pay the water bill. The landlord stated that they had to pay the outstanding bill before the water company would turn the water on. The landlords seek to recover the unpaid water bill in the amount of \$219.76. Filed in evidence is a copy the water bill.

The landlord testified that the tenant left a large amount of garbage inside and outside of the rental unit, which had to be removed. The landlords seek to recover the amount of \$315.00. Filed in evidence are photographs and a receipt.

The landlord testified that the tenant broke the garage door opener, which was functioning at the start of the tenancy. The landlord stated that they obtained an estimate of \$400.00 to make the necessary repair. The landlords seek to recover the amount of \$400.00.

Analysis

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

In a claim for damage or loss under the *Act* or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlords have the burden of proof to prove their claim.

Section 7(1) of the *Act* states that if a landlord or tenant does not comply with the *Act*, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the *Act* provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Section 26 of the Residential Tenancy *Act* states:

26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The evidence of the landlord was the tenant did not pay all rent owed for April 2016 and did not pay any rent for May 2016. I find the tenant has breached section 26 of the *Act* when they failed to pay rent when due under the tenancy agreement and this has caused losses to the landlords. Therefore, I find the landlords are entitled to recover unpaid rent in the amount of **\$3,280.00**.

The evidence of the landlord was the tenant failed to pay the water bill. I find the tenant breached the *Act*, and the landlord suffered a loss. Therefore, I find the landlord is entitled to recover the water bill in the amount of **\$219.76**.

Section 37 of the Residential Tenancy *Act* states:

37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

I accept the evidence of the landlord that the tenant left a large amount of garbage behind, which had to be disposed. I find the tenant breached the *Act*, when they failed to remove the garbage and this caused losses to the landlord. Therefore, I find the landlords are entitled to recover cost of garbage removal in the amount of **\$315.00**.

I accept the evidence of the landlord that the tenant broke the garage door open. I find the tenant breached the *Act*, when they failed to leave the rental unit undamaged. Therefore, I find the landlords are entitled to recover cost of the estimated repair of the garage door opener in the amount of **\$400.00**.

I find the landlords have established a total monetary claim in the amount of **\$4,314.76**, comprised of the above amount and the \$100.00 filing fee.

I order that the landlords retain the security deposit in partial satisfaction of the claim. I grant the landlords a formal order pursuant to section 67 of the *Act* for the balance due of **\$3,139.76**.

Conclusion

The landlords are granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlords are granted a formal order for the balance due.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.2(1) of the *Residential Tenancy Act*.

Dated November 17, 2016

Residential Tenancy Branch