



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NJM HOLDING INC
and [tenant suppressed to protect privacy]

DECISION

Dispute Codes OPC, MND, FF

Introduction

This hearing dealt with a landlord's Application for Dispute Resolution (the "Application") under the Residential Tenancy Act (the "*Act*") for:

- an order of possession for cause;
- a monetary order for damage to the unit; and
- recovery of the filing fee paid for this application from the tenant.

The landlord's agent (the "landlord") and the tenant appeared at the teleconference hearing. The tenant appeared with two advocates. The landlord and tenant gave affirmed testimony. During the hearing the landlord and tenant were given a full opportunity to be heard, to present sworn testimony and make submissions.

Preliminary and Procedural Matters

It was unnecessary to address the landlord's application for an order of possession for cause as the landlord's One Month Notice to End the Tenancy for Cause was dealt with at a previous hearing on March 1, 2017. The file number for the previous hearing is indicated on the cover page for ease of reference. At the previous hearing the One Month Notice was cancelled.

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute regarding damage to the unit. The parties were unable to achieve a resolution in regards to the landlord's claim for recovery of the filing fee.

During the course of the hearing, the parties reached an agreement to settle the matter of damage to the unit, on the following conditions:

1. The parties agree that the tenant owes the landlord the amount of \$669.40 for the cost of repairs for damage caused by the tenant;
2. The landlord will retain the tenant's security deposit in the amount of \$225.00 to offset the amount owed to the landlord set out in #1 above; and
3. The tenant agrees to pay the landlord the outstanding balance in the amount of \$444.40. Accordingly, the parties agree that the landlord will be granted a monetary order in the amount of \$444.40 as final settlement of the landlord's claim for damages to the unit.

The parties were unable to agree on the terms of payment. As such, the parties acknowledged that the landlord is entitled to take steps to enforce the monetary order.

Issue to be Decided

- Is the landlord entitled to recovery of the filing fee paid for this application from the tenant?

Background and Analysis

The landlord is seeking to recover the \$100.00 filing fee for their Application from the tenant. The tenant does not wish to reimburse the landlord for the filing fee.

I find that the settlement reached was as a result of the landlord having to bring this Application. The landlord was required to pay the filing fee of \$100.00 for their Application. I find that the landlord's Application was substantially successful on the basis of the settlement reached. Therefore, I find that the landlord is entitled to recover the \$100.00 filing fee for having to bring this Application which resulted in a settlement.

Based upon the foregoing, the landlord is entitled to a monetary order in the amount of \$544.40 as follows:

Outstanding Amount Owed for Damage as per #3 above	\$444.40
Filing Fee	\$100.00
Total Monetary Award	\$544.40

Conclusion

I order the parties to comply with the terms of their settlement agreement described above.

The landlord is granted recovery of the \$100.00 filing fee for their Application from the tenant.

Pursuant to section 67, the landlord is granted a monetary order in the amount of \$544.40 which includes the settlement amount for damage and the filing fee, less the security deposit. This monetary order must be served on the tenant as soon as possible. Should the tenant fail to comply with this monetary order, it 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: March 24, 2017

Residential Tenancy Branch