



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PLAZA 200 APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MSND, FF

Introduction

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

- a monetary order for damage to the rental unit 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;
- authorization to recover its 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 testimony. The tenant did not attend or submit any documentary evidence. The landlord states that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on October 13, 2016. In support of this claim the landlord has provided a copy of the Canada Post Customer Receipt Tracking label as confirmation. The landlord stated that the package was returned by Canada Post as "unclaimed". The landlord clarified that the tenant had vacated the rental unit on May 27, 2016 and had received the tenant's address through one of their Resident Manager's from an alternate site. The landlord had sent a letter to the tenant dated August 23, 2016 to this address from which the tenant responded in a letter received on September 30, 2016. The submitted letters reference the tenant's response to the landlord's August 23, 2016 letter. I accept the undisputed affirmed testimony of the landlord and find that the tenant was properly served as per sections 88 and 89 of the Act. Although the tenant did not claim the package, I find that the tenant has been sufficiently served pursuant to section 90 of the Act

Issue(s) to be Decided

Is the landlord entitled to a monetary order for damage 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 July 1, 2011 on a fixed term tenancy ending on December 31, 2011 and then thereafter on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated June 2, 2011. The monthly rent was \$950.00. A security deposit of \$475.00 and a pet damage deposit of \$475.00 were paid.

The landlord seeks a monetary claim of \$3,445.65 which consists of:

\$428.15	Debris Removal
\$1,417.50	Cleaning/Painting/Repairs, labour
\$129.61	Paint
\$2,241.16	Carpet Replacement discounted to \$1,158.58
\$211.61	Repair supplies, bi-fold doors
\$100.00	Changed Locks

The landlord claims that the tenant vacated the rental unit on may 27, 2016 leaving it dirty and damaged. The landlord stated that the tenant left garbage and furniture throughout rental premises and that the bi-fold carpe doors damaged requiring repairs. The landlord also stated that the tenant failed to return the keys to the rental unit requiring the changing of the locks by the landlord.

In support of this claim the landlord has provided copies of invoices/receipts for each claim, 6 photographs of the rental unit, a copy of the landlord's letter to the tenant at her new mailing address dated August 23, 2016, a copy of the tenant's letter in response dated received on September 30, 2016, a copy of the condition inspection report for the move-in and a copy of the signed tenancy agreement.

The landlord also clarified that the carpet replacement cost (\$2,241.58) was discounted to reflect the useful life span for the depreciated value as it was 4 years old to the claim of \$1,158.58.

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. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

I accept the undisputed affirmed evidence of the landlord and find on a balance of probabilities that the landlord has established a claim for the \$3,445.65 as the tenant has vacated the rental unit leaving it dirty and damaged requiring cleaning and repairs as claimed. The landlord has provided copies of all invoices/receipts for the items of claim. As such, I find that the landlord application has been successful.

Having been successful, I find that the landlord is entitled to recovery of the \$100.00 filing fee. I authorize the landlord to retain the \$475.00 security and the \$475.00 pet damage deposits in partial satisfaction of this claim.

Conclusion

The landlord is granted a monetary order for \$2,595.65.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the 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, 2017

Residential Tenancy Branch