



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR MNDC FF

Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for a monetary order for unpaid rent or utilities, for damage to the unit, site or property, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the cost of the filing fee.

The landlord and tenant attended the start of the hearing on March 14, 2017 and after 58 minutes the hearing was adjourned to allow time for additional evidence to be considered. An Interim Decision was issued dated March 16, 2017 which should be read in conjunction with this decision. On April 27, 2017, at the reconvened hearing the landlord attended however the tenant failed to attend and after additional testimony was provided the hearing concluded. As the tenant failed to attend the entire hearing, I consider the landlord's Application to be unopposed by the tenant as a result. During the hearing the landlord was given the opportunity to provide her evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

Issue to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed term tenancy began on October 1, 2014 and ended on August 25, 2015 when the tenant returned the

rental unit keys to the landlord. Monthly rent of \$1,400.00 per month and was due on the first day of each month. The tenant paid a security

The landlord's monetary claim for \$6,774.00 is comprised as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Unpaid rent and loss of rent for three months total (3 months X \$1,400.00 per month)	\$4,200.00
2. Repairs – material	\$480.00
3. Repairs – labour	\$1,880.00
4. NSF charges	\$14.00
5. Filing costs (asking for two filing fees)	\$200.00
TOTAL	\$6,774.00

Regarding item 1, the landlord testified that the tenant failed to pay three months of rent at \$1,400.00 per month and that the tenant had placed a total of two stop payments on her rent cheques which the tenant confirmed during the first portion of the hearing. The tenant confirmed that she did not have an order from an arbitrator to withhold rent. The landlord testified that the total amount of rent owing by the tenant is \$4,200.00 comprised of unpaid rent for June and August of 2015, and loss of September 2015 rent due to the fixed term tenancy breach on the part of the tenant.

Regarding item 2, the landlord has claimed for \$480.00 for materials to repair damages to the rental unit caused by the tenant. The landlord referred to many colour photos in support of this portion of her claim.

Regarding item 3, the landlord has claimed \$1,880.00 for labour to repair the damages caused by the tenant to the rental unit. The landlord referred to a receipt submitted in evidence and indicated that the remaining receipts were not available until after the evidence submission deadline but that she did suffer a total loss of labour in the amount of \$1,880.00.

Regarding item 4, the landlord is claiming \$14.00 for two \$7.00 NSF charges for the two months of June and August 2015 when the tenant admitted to placing a stop payment on the two cheques at issue.

Regarding item 5, the landlord was advised that she is only entitled to the recovery of the cost of one filing fee as a filing fee for a different application would not be relevant to this particular claim and in the matter before me, was related to a previous application

where the landlord's application was dismissed with leave to reapply and that filing fee was not returned to the landlord in that previous decision. The file number of the previous decision has been included on the cover page of this decision for ease of reference.

Analysis

Based on the undisputed documentary evidence and undisputed testimony of the landlord, and on the balance of probabilities, I find the following.

As the tenant was served with the Notice of Hearing, Application, documentary evidence and the Notice of Reconvened Hearing and did not attend the reconvened portion of the hearing, I consider this matter to be unopposed by the tenant. As a result, and taking into account that I find the landlord's evidence and testimony support her full monetary claim, I find the landlord's application is fully successful with the exception of the second filing fee which I find the landlord is not entitled to under section 72 of the *Act*.

In reaching this finding I have considered the testimony provided, the photo evidence, condition inspection report, tenancy agreement and other documentary evidence presented by the landlord. In addition, I find that the tenant breached sections 37 and 26 of the *Act*. Section 37 of the *Act* requires that a tenant leave the rental unit in a reasonably clean condition less wear and tear and I find that the photo evidence supports that the tenant breached section 37 by damaging the rental unit. Section 26 of the *Act* requires that a tenant pay rent on the date in which it is due in accordance with the tenancy agreement. Based on the undisputed evidence before me, I find the tenant breached section 26 of the *Act*. I also find that by the tenant not returning the rental unit keys until August 25, 2015 that the landlord was unable to re-rent the rental unit for September 2015 due to the damage to the rental unit caused by the tenant and that the tenant is liable for loss of September 2015 as a result.

As the landlord's claim is successful, I grant the landlord the recovery of the cost of the filing fee in the amount of **\$100.00**. Based on the above, I find the landlord has established a total monetary claim in the amount of **\$6,674.00** calculated as follows:

ITEM DESCRIPTION	AMOUNT AWARDED
1. Unpaid rent and loss of rent for three months total (3 months X \$1,400.00 per month)	\$4,200.00
2. Repairs – material	\$480.00
3. Repairs – labour	\$1,880.00

4. NSF charges	\$14.00
5. Filing costs	\$100.00
TOTAL	\$6,674.00

As the landlord has not claimed against the tenant's security deposit, I will not deal with the security deposit in this decision.

Pursuant to section 67 of the *Act* I grant the landlord a monetary order in the amount of **\$6,674.00** as described above.

Conclusion

The landlord's application has merit.

The landlord has been granted a monetary order pursuant to section 67 of the *Act*, for the amount owing by the tenant to the landlord in the amount of \$6,674.00. The landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: May 15, 2017

Residential Tenancy Branch