



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

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

- a Monetary Order for unpaid rent and damages pursuant to section 67;
- authorization to retain the security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, which lasted approximately 15 minutes. The landlord attended and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the landlord's application for dispute resolution dated February 3, 2017 was sent to the tenants by registered mail on February 9, 2017. The landlord provided two Canada Post tracking numbers as evidence of service. I find that the tenants were deemed served with the landlord's application for dispute resolution and evidence package in accordance with sections 88, 89 and 90 of the Act on February 14, 2017, five days after mailing.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This fixed term tenancy began in May, 2016 and ended on January 31, 2017. The tenancy

agreement provides that the tenancy was to end on April 30, 2017. The monthly rent was \$2,150.00 payable on the first of the month. A security deposit of \$1,075.00 and pet damage deposit of \$1,075.00 were paid by the tenants at the start of the tenancy and still held by the landlord.

The tenants failed to participate in a move out condition inspection report at the end of the tenancy despite the landlord making multiple attempts to arrange an inspection. The landlord testified that the tenants left the rental unit in disarray when vacating, necessitating considerable cleaning and repairs. The landlord submitted into written evidence invoices and receipts for the cleaning and repairs undertaken after the tenants vacated the rental unit.

The landlord seeks a monetary award of \$4,962.65 under the following heads of damage:

Item	Amount
Repairs and Cleaning	\$2,872.67
BC Hydro Bill (Nov 11, 2016 – Jan 20, 2017)	\$1,095.77
Municipal Utility Bill	\$342.57
Miscellaneous Filing Costs	\$136.54
Loss of Revenue	\$515.10
Total	\$4,962.65

The landlord testified that the tenants failed to pay several utilities as they were required to do under the tenancy agreement. The landlord submitted into written evidence a bill from the municipality in the amount of \$342.57 for unpaid services. The landlord submitted into written evidence a bill from BC Hydro for the period November 10, 2016 to January 20, 2017 for the amount of \$1,095.77.

The landlord said that he attempted to find a new occupant for the rental unit to minimize his losses. The landlord testified that he was only able to rent out the unit at a lesser monthly rate of \$2,000.00. The landlord seeks an award for the cost of posting the rental ad and the loss of revenue of \$150.00 for the three month period of February to April, 2017.

Analysis

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. 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 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.

The landlord provided undisputed evidence at this hearing, as the tenants did not attend.

I accept the landlord's evidence that the tenant caused damage to the rental unit that required repairs and cleaning. I accept the landlord's written evidence that the cost of the repairs and cleaning is \$2,872.67.

I accept the landlord's written evidence that the tenants failed to pay the utility bills for the rental unit and the landlord paid the municipal utility and the BC Hydro bills in the amounts of \$1,095.77 and \$342.57 respectively.

I accept the landlord's written evidence that he incurred costs in preparing his claim and the total amount of loss is \$136.54 under this head.

I accept the landlord's evidence that he took reasonable steps to mitigate the loss by renting out the rental unit to a new tenant. I find that the landlord has provided sufficient evidence in support of his claim that costs were incurred as a result of his search for a new tenant. I accept the landlord's evidence that despite his efforts he was only able to find a tenant for a lower monthly rental rate. Accordingly, I find that the landlord is entitled to a monetary award in the amount of \$515.10 under this head.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenants' security deposit and pet damage deposit of \$2,150.00 in partial satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I issue a monetary order in the landlords' favour in the amount of \$2,912.65 under the following terms, which allows the landlord to recover the damage and loss suffered and the filing fee for their application:

Item	Amount
Repairs and Cleaning	\$2,872.67
BC Hydro Bill (Nov 11, 2016 – Jan 20, 2017)	\$1,095.77
Municipal Utility Bill	\$342.57
Miscellaneous Filing Costs	\$136.54
Loss of Revenue	\$515.10
Filing Fees	\$100.00
Less Security Deposit	-\$2,150.00
Total	\$2,912.65

The tenants must be served with this Order as soon as possible. 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: June 7, 2017

Residential Tenancy Branch