



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, FF

Introduction

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

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

The landlord testified and supplied documentary evidence that she served the tenant with the Notice of Hearing and Application for Dispute Resolution by registered mail, sent on January 27, 2017, and deemed received under the Act five days later. The landlord provided tracking information from Canada Post indicating the mail had been left unclaimed and returned to the landlord on February 5, 2017. I find the Landlord has acted in accordance with Sections 88 and 90 of the Act.

Issue to be Decided

Is the landlord entitled to a monetary award for losses arising out of this tenancy?
Is the landlord entitled to recover the filing fee for this application from the tenant?

Background, Evidence

The landlord's undisputed testimony is as follows. The tenancy began on January 15, 2012 and ended on January 4, 2017. The tenants were obligated to pay \$1650.00 per month in rent in advance and at the outset of the tenancy the tenants paid an \$800.00 security deposit and \$800.00 pet deposit. The landlord still holds both deposits as of this hearing. The landlord testified that the tenant damaged a door and the casing around it and two fixtures which required repairing. The landlord testified that the tenant left the unit in a bio-hazard condition by leaving used condoms, drug paraphernalia,

human feces and urine strewn about the unit. The landlord testified that the tenant did not return the keys to the unit and damaged a lock that required repair. The landlord testified that it took three people cleaning the unit for three days to get it back to a reasonable condition. The landlord testified that two separate dump runs were required to remove all the garbage and debris that the tenant left behind. The landlord testified that the unit was painted just prior to the tenant moving in but required a full repaint after he had moved.

The landlord is applying for the following:

1.	Painting supplies and Labour	\$789.34
2.	Lock Repair	114.89
3.	Cleaning, labour, supplies, dump fees	1084.54
4.	Door and Fixture repair	923.56
5.	Filing Fee	100.00
6.		
7.		
8.		
	Total	\$3012.33

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.

The landlord provided extensive documentation to support their claim. The landlord submitted receipts, photos, digital evidence and the condition inspection report at move in and move out. The landlord has provided sufficient evidence to satisfy me that they have met the requirements as noted under Section 67 of the *Act*, save and except for the painting. The landlord advised that the paint was five years old when the tenant moved out. Residential Tenancy Policy Guideline 40 addresses the “useful life” of

building elements and lists the useful life of paint as four years. The landlord has not provided sufficient evidence of any exceptional circumstances that would have me consider something beyond the four years as outlined, accordingly; I dismiss the painting portion of the landlords claim.

The landlord is also entitled to the recovery of the \$100.00 filing fee.

Conclusion

The landlord has been successful for the following claims.

1.	Lock Repair	\$114.89
2.	Cleaning, labour, supplies, dump fees	1084.54
3.	Door and Fixture repair	923.56
4.	Filing Fee	100.00
5.		
6.		
7.		
8.		
	Total	\$2222.99

The landlord has established a claim for \$2222.99. Although the landlord has not applied for the retention of the security and pet deposit, applying the “offsetting” provision under Section 72 of the Act, I order that the landlord retain the deposits in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$622.99. This order may be filed in the Small Claims 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: July 10, 2017

Residential Tenancy Branch