



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL MND MNDC FF SS

Introduction

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

- an Order of Possession for landlord's own use, pursuant to section 55;
- a monetary order for damage to the unit, site, or property, monetary loss or money owed pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

AB ('landlord') appeared as agent on behalf of the landlord, and had authority to do so. While the landlord attended the hearing by way of conference call, the tenant did not. I waited until 2:10 p.m. to enable the tenant to participate in this scheduled hearing for 2:00 p.m. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

An Order for Substituted Service was granted by an Adjudicator on February 15, 2017 to allow the landlord to serve the tenant with this Application and supporting documents and evidence by way of email. The landlord gave sworn testimony that on February 16, 2017 copies of the Application for Dispute Resolution hearing package ('Application') and evidence were served to the tenant to the email indicated on the Order. The landlord included, in their evidence, a copy of this email. In accordance with sections 88, 89, and 90 of the *Act*, I find that the tenant was deemed served with copies of the landlord's application and evidence on February 18, 2017, three days after mailing. The tenant did not submit any written evidence for this hearing.

The landlord's agent testified that the tenant moved out on January 31, 2017, and was withdrawing the application for an Order of Possession.

Issue(s) to be Decided

Is the landlord entitled to a monetary award for damage to the unit, site, or property, or for monetary loss or money owed under the tenancy agreement, regulation, or *Act*?

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

Background and Evidence

The landlord's agent gave undisputed testimony regarding the following facts. This tenancy began on October 1, 2010, with monthly rent set at \$1,200, payable on the first of each month. The landlord collected, and still holds, a security deposit in the amount of \$600.00.

This tenancy ended on the effective date of January 31, 2017 pursuant to a 2 Month Notice to End Tenancy ('2 Month Notice') issued to the tenant on November 8, 2016 as the landlord sold the rental unit and the new owner wished to occupy it. A copy of the 2 Month Notice was included in the landlord's evidence. The tenant moved out on January 31, 2017, leaving his furniture and belongings behind, and without properly cleaning the rental unit.

The landlord testified that no move-out inspection was done as the tenant failed to show up at the designated time and date. The move-out inspection was scheduled for 11:30 am on January 31, 2017. The landlord testified that attempts were made to contact the tenant, with no success.

The landlord is seeking a Monetary Order, as outlined in the table below, for the losses incurred due to the tenant's failure to clean the suite, and due to the damage and belongings left by the tenant upon move-out:

Item	Amount
Replacement of Mirrored Door, and Repairs	\$550.00
Cleaning	315.00
Carpet Cleaning	94.50
Junk Removal	2,100.00
FOB Replacement (\$75x3)	225.00
Move Out Fee	150.00

Filing Fee	100.00
Admin Fee by Property Management Company per Condition 13 of Lease	80.00
Less Security Deposit	-600.00
Less Overpayment of Rent	-13.88
Total Monetary Order Requested	\$3,000.62

The landlord provided receipts and invoices in their evidence to support the above claims. The landlord's evidence also contains photos which depict the tenant's personal belongings left by the tenant, as well as the condition of the suite left by the tenant when the tenant moved out. The landlord also included a copy of the Condition Inspection Report.

The tenant failed to return the two FOBs in his possession, which were deactivated. The landlord made a claim for the two FOBs, as well as for the purchase of a new one. The landlord also testified that the tenant failed to pay the move-out fee to the strata management company for the move-out.

The landlord is also making a monetary claim for an \$80.00 fee, which is outlined as a condition of 13(c) in the tenancy agreement. A copy of the written agreement was included in the landlord's evidence, which states "In the event that the Landlord applies for arbitration at the RTB, and the Landlord is successful in pressing its suit, the tenant will be charged the cost thereof. In the event of an arbitration occurring in which the landlord must attend, and the cause of the arbitration arises from the tenant's nonpayment of rent or damage to the property or other breach of this agreement, the tenant agrees to pay the landlord a service charge of \$80.00".

Analysis

Section 37(2)(a) of the *Act* stipulates that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. The landlord provided, in evidence, photographs, receipts and invoices to support their claim. The landlord also provided undisputed testimony that the tenant had moved out, abandoning his belongings, and failing to properly clean the suite. I find that the landlord provided sufficient evidence to support the value of the loss that the landlord suffered due to the tenant's abandonment of his personal property.

Accordingly, I allow the landlord's monetary claim as outlined above, less \$75.00 for the

new FOB as new keys, including locks and FOBS, are the responsibility of the landlord as outlined below.

Rekeying locks for new tenants

25 (1) At the request of a tenant at the start of a new tenancy, the landlord must

(a) rekey or otherwise alter the locks so that keys or other means of access given to the previous tenant do not give access to the rental unit, and

(b) pay all costs associated with the changes under paragraph (a).

The landlord continues to hold the tenant's security deposit of \$600.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenant's security deposit of \$600.00 in partial satisfaction of the monetary claim.

As the landlord was successful in their application, I am allowing the landlord to recovery the filing fee from the tenant

Conclusion

The landlord withdrew his application for an Order of Possession as the tenant had moved out.

I issue a \$2,925.62 Monetary Order in favour of the landlord under the following terms, which allows the landlord to recover the filing fee, and also allows the landlord to recover the losses associated with this tenancy due to the tenant's failure to comply with section 37(2)(a) of the *Act*:

Item	Amount
Replacement of Mirrored Door, and Repairs	\$550.00
Cleaning	315.00
Carpet Cleaning	94.50
Junk Removal	2,100.00
FOB Replacement x 2 (\$75 each)	150.00
Move Out Fee	150.00

Filing Fee	100.00
Admin Fee by Property Management Company per Condition 13 of Lease	80.00
Less Security Deposit	-600.00
Less Overpayment of Rent	-13.88
Total Monetary Order	\$2,925.62

The tenant(s) must be served with this Order as soon as possible. Should the tenant(s) 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: August 18, 2017

Residential Tenancy Branch