



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision Codes: FFL, OPR, MNRL

FFL, MNDC-S, MNDL – S, MNRL – S

Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. A monetary order in the sum of \$13,706 for unpaid rent and damages
- b. An order to keep the security deposit.
- c. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties acknowledged they had received the documents of the other party.

Preliminary Matter:

The landlord stated that the tenant had vacated the rental unit and they were no longer seeking an Order of Possession. Further they had filed a second claim in the File number ending ...3656 which included a claim for that was part of the monetary claim in the File number ending....0824 and they wished to abandon the claim in File number ending ...0824. As a result I dismissed the claim in File number ending in0824.

I find that the Application for Dispute Resolution/Notice of Hearing in the File ending in3656 was served on the Tenant by mailing, by registered mail to where the Tenant resides on November 20, 2017. The tenant received the documents the next day. With respect to each of the applicant's claims I find as follows:

Issues to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to a monetary order and if so how much?

- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenancy began in January 2014. The parties subsequently entered into a two year fixed term tenancy agreement that provided that the tenancy would start on February 1, 2016 and end on January 31, 2018. The tenancy agreement provided that the tenant(s) would pay rent of \$3189 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$1550 and a pet deposit of \$1550 for a total of \$3100 at the start of the tenancy.

The tenant failed to pay the rent for September 2017. The tenant vacated the rental unit at the end of September 2017.

Landlord's Application - Analysis

The Residential Tenancy Act provides the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant and is liable to compensate the landlord for failure to do so. In some instances the landlord's standards may be higher than what is required by the Act. The tenant is required to maintain the standards set out in the Act. The tenant is not required to make repairs for reasonable wear and tear. The applicant has the burden of proof to establish the claim on the evidence presented at the hearing.

Monetary Order and Cost of Filing fee

With respect to each of the landlord's claims I find as follows:

- a. I determined the landlord is entitled to \$3189 for non payment of the rent for September 2017. The tenant acknowledged responsibility for this claim.
- b. The Application for Dispute Resolution filed by the landlord claimed loss of rent for October and November 2017. At the hearing the landlord stated they were abandoning this claim. As a result I dismissed the landlord's claim for loss of rent for October and November 2017.
- c. I determined the landlord is entitled to \$1090.39 for the cost of rekeying the property, rubbish removal and removal of drywall. The landlord produced an

invoice supporting this claim. I determined the amount claimed was reasonable in the circumstances.

- d. The landlord claimed \$630 for the cost of cleaning. I determined the amount claimed is unreasonable given the photographs and other evidence presented. I determined the landlord is entitled to \$300 of this claim.
- e. The landlord claimed \$200 for the cost of lawn cutting, leave removal and weeding. However, the invoice is dated November 1, 2017. It is not possible to determine how much of this work took place prior to the tenants vacating. I determine the landlord is entitled to \$100 of this claim.
- f. I determined the landlord is entitled to \$1594.50 pursuant to a liquidated damage clause.
- g. The landlord claimed \$625 NSF fee and late fees. The tenancy agreement provided that the landlord could charge \$25 late fee and a \$25 NSF fee. I determined the landlord is entitled to \$350 of this claim based on a late fee/NSF fee to September 2017, August 2017, May 2017, March 2017, February 2017, December 2016 and August 2016. I dismissed the claim for a late fee/NSF fee for the period after the end of September as the tenancy had come to an end. I dismissed the claims for an NSF fee and late fee prior to the start of this tenancy agreement on February 1, 2016,

In summary I determined the landlord has established a monetary claim against the tenant(s) in the sum of \$6623.89 plus the \$100 filing fee for a total of \$6723.89.

Security Deposit

I determined the security deposit and pet damage deposit totals \$3100. I determined the landlord is entitled to retain this sum. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$3623.89.

Conclusion

In summary I determined the landlord has established a monetary order against the tenant(s) in the sum of \$6723.89. I ordered the landlord may retain the security deposit/pet deposit in the sum of \$3100. In addition I ordered that the Tenant pay to the Landlord the sum of \$3623.89.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this 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 final and binding on the parties.

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: December 19, 2017

Residential Tenancy Branch

This decision is amended pursuant to section 78(1) of the Residential Tenancy Act this 3rd day of January 2018.

Residential Tenancy Branch