



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, MNR, FF

Introduction

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

- an Order of Possession for landlord's use pursuant to section 55;
- a monetary Order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee from the tenants pursuant to section 72.

The tenants did not attend this hearing which lasted approximately 10 minutes. The landlords attended and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord SLP primarily spoke on behalf of both co-landlords (the "landlord").

The landlord testified that the landlord's application for dispute resolution dated January 12, 2018 and evidence was served on the tenants personally on January 19, 2018 in the presence of a witness. I find that the tenants were duly served with the landlords' application and evidence in accordance with sections 88 and 89 of the *Act* on that date.

At the outset of the hearing the landlord testified that the tenants have vacated the rental unit and they are not seeking an order of possession. The landlord is also seeking to amend their monetary claim by reducing it to \$725.00. As changing the monetary amount being sought is reasonably foreseeable, I amend the landlords' application to decrease the monetary claim from \$3,850.00 to \$725.00 pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure.

Issue(s) to be Decided

Are the landlords entitled to a monetary award as claimed?

Are the landlords entitled to recover the filing fee for this application from the tenants?

Background and Evidence

The landlord provided undisputed evidence regarding the following facts. This tenancy began in February, 2012. A security deposit of \$625.00 was collected at the start of the tenancy and is held by the landlord.

The landlord gave evidence that after the tenant vacated the rental unit the premises were “completely uncleaned and with significant damage”. The landlord submitted in documentary evidence numerous photographs showing the condition of the rental suite, receipts and invoices for the cost of repairs and cleaning. The landlord said that while the cost of cleaning and repairs exceeds the amount they are seeking they believe the tenants will not comply with a monetary order.

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 claimant also has a duty to take reasonable steps to mitigate their loss.

I am satisfied based on the totality of evidence that the landlords have suffered damages and loss as a result of the tenants. I accept the landlord's claim that the amount of the damages is \$625.00. Accordingly, I issue a monetary award in the landlords' favour in that amount.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenants' \$625.00 security deposit in satisfaction of the monetary award issued in the landlords' favour.

As the landlords' application was successful the landlords may also recover the \$100.00 filing fee for this application from the tenants.

Conclusion

I issue a monetary order in the landlords' favour in the amount of \$100.00. 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: March 13, 2018

Residential Tenancy Branch