



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC-S, FF

Introduction

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

- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover their filing fee for this application from the tenants pursuant to section 72.

The landlords attended the hearing via conference call and provided undisputed affirmed testimony. The tenants did not attend or submit any documentary evidence. The landlords stated that the tenants were served with Canada Post Registered Mail on March 9, 2018. I accept the undisputed affirmed testimony of the landlords and find that the tenants were properly served as per section 89 of the Act. During the hearing the landlords stated that they did not serve the tenants with the submitted documentary evidence because they had assumed that the uploaded evidence was available to the tenants for review. As such, the landlords' documentary evidence was not served to the tenants as per section 88 of the Act and is excluded from consideration in this hearing. The hearing proceed on the landlords' direct testimony only.

Issue(s) to be Decided

Are the landlords entitled to a monetary order for money owed or compensation for damage or loss and recovery of the filing fee?

Are the landlords entitled to retain all or part of the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlords seek a monetary claim of \$400.00 which consists of:

\$15.00	Recycling
\$125.00	Cleaning
\$61.01	Recycling and Dump Fee(s)
\$25.74	Replace Blue (Recycling) Box
\$22.68	Postage

The landlords claim that the tenants vacated the rental unit and that it was discovered dirty and garbage/items left requiring cleaning and disposal of items. The landlords stated that the tenants had sent a letter to the landlords confirming this and apologizing to the landlords. The landlords' claim that extensive time was spent cleaning up the garbage and organizing the items left for disposal. Copies of each invoice/receipt(s) and a copy of the letter given to the landlord by the tenants were available.

The landlords also stated that a \$1,100.00 security deposit was being held pending the outcome of this hearing and wished to offset the claim against this held deposit.

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.

Section 72 of the *Act* addresses **Director's orders: fees and monetary order**. With the exception of the filing fee for an application for dispute resolution, the *Act* does not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, the Landlords' claim for recovery of litigation costs (postage) is dismissed.

On the remaining items of claim for:

\$15.00	Recycling
\$125.00	Cleaning

\$61.01	Recycling and Dump Fee(s)
\$25.74	Replace Blue (Recycling) Box

It was noted with the landlords that this claim totals only \$226.75 and not the \$400.00 filed in application for. The landlords clarified that the application be amended to reflect this total as the claim sought is now only for “hard costs” incurred by the landlords which including the recovery of the filing fee of \$100.00 for a total of \$326.75.

On this basis, I accept the landlords’ undisputed affirmed testimony regarding the claim that the tenants vacated the rental unit leaving it dirty with many abandoned items requiring disposal. The landlords also provided undisputed affirmed testimony that the tenants had given to the landlords a letter confirming leaving the rental unit dirty and with the many items left behind. I find that this required the landlords to hire a cleaner and dispose of various items which were removed for disposal. I accept the landlord’s undisputed affirmed testimony that the “hard costs” incurred totaled, \$226.75.

The landlords having been successful are entitled to recovery of the \$100.00 filing fee.

As the landlords currently hold a \$1,100.00 security deposit, I authorize the landlords to retain the \$326.75 claim granted and I order a monetary order issued in the tenants favor for the remaining amount of \$773.25.

Conclusion

The tenants are granted a monetary order for \$773.25.

This order must be served upon the landlords. Should the landlords fail to comply with the 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 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: October 01, 2018

Residential Tenancy Branch