



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDL, MNDCL, FFL

Introduction

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

- a monetary order for damage to the rental unit, and for money owed or 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 this application from the tenant pursuant to section 72.

The tenant did not participate in the conference call hearing, which lasted approximately 15 minutes. The landlord's agent (the "landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed he was an agent of the landlord named in this application, and had authority to speak on its behalf.

The landlord testified that on March 2, 2018 the landlord's application for dispute resolution hearing package was sent via registered mail to the tenant. The landlord provided a Canada Post receipt and tracking number as proof of service. Based on the testimony of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant has been deemed served with the application and supporting documents on March 7, 2018, the fifth day after their registered mailing.

Preliminary Issue – Previous Decision

A previous Decision was rendered on January 30, 2017 regarding this tenancy. The file number has been included on the front page of this Decision for ease of reference. In this Decision, the Arbitrator granted an order of possession and monetary order for December 2016 and January 2017 rent arrears. Pursuant to the offsetting provisions of section 72 of the *Act*, the Arbitrator allowed the landlord to retain the security deposit in the total amount of \$787.50 in partial satisfaction of the monetary award and granted an order for the balance due \$2,462.50.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act, Regulation* or tenancy agreement?

Is the landlord authorized to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord testified that this tenancy began on November 1, 2014 on a fixed term until November 1, 2015 at which time the tenancy continued on a month-to-month basis. Rent in the amount of \$1,575.00 was payable on the first of each month.

On February 1, 2017, the landlord served the order of possession, monetary order and a letter to the tenant. The letter indicates that if the outstanding balance is not paid by February 28, 2017 the landlord will apply to Small Claims Court for enforcement. The letter further states that if the tenant does not vacate as per the 2 day order of possession, the landlord will obtain the services of a bailiff.

On February 10, 2017 the landlord applied for a writ of possession. The landlord testified that on February 15, 2017 it became apparent that the tenant had vacated the unit. The landlord testified that the unit was left a "complete disaster" and because of this, the landlord was unable to immediately re-rent the unit. The landlord re-rented the unit effective April 1, 2017 for a monthly rent of \$2,100.00.

The landlord seeks compensation in the amount of \$7,877.09, including the following;

Item	Amount
Junk removal	\$700.00
Fireplace glass	\$879.38
House cleaning	\$630.00
Basement floor	\$2,094.90
Miscellaneous damage repair	\$788.51
Carpet cleaning	\$105.00
House cleaning	\$141.75
Closet door repair	\$63.78
Change locks	\$136.92
Mailbox lock	\$116.85
Writ of possession	\$120.00
March rent	\$2,100.00
Total Claim	\$7,877.09

The landlord is also seeking to recover the \$100.00 filing fee for this application from the tenant.

The landlord submitted a copy of the tenancy agreements, the demand letter and invoices.

Analysis

Under section 67 of the *Act*, when a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. To prove a loss, the applicant must satisfy the test prescribed by Section 7 of the *Act*. The applicant must prove a loss actually exists and prove the loss happened solely because of the actions of the respondent in violation to the *Act*. The applicant must also verify the loss with receipts and the applicant must show how they mitigated or what reasonable efforts they made to minimize the claimed loss.

Section 37 of the *Act*, establishes 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. Upon review of the invoices and undisputed testimony of the landlord I am satisfied that the tenant left the rental unit contrary to section 37(2) of the *Act*. Accordingly, I find the landlord is entitled to recover damages for junk removal, fireplace glass, house cleaning, basement floor, miscellaneous damage repair, carpet cleaning, house cleaning and closet door repair, in the amount of \$5,403.32.

As per *Residential Tenancy Policy Guideline #1 ("RT Policy Guideline")* a tenant must return all keys at the end of the tenancy. Based on the undisputed claim of the landlord that the tenant abandoned the unit and did not return keys, I find that the landlord is entitled to the reimbursement of the locksmith fee in the total amount of \$253.77.

In regards to the landlord's request to recover the writ of possession fee, I hold the tenant responsible for this cost. The landlord was entitled to apply for a writ of possession because the tenant had not complied with the order of possession. Accordingly, I find the landlord is entitled to recover \$120.00.

When premises are unrentable due to damage caused by the tenant, the landlord is entitled to claim damages for loss of rent. The landlord must mitigate the loss by completing the repairs in a timely manner. Based on the invoices before me and the undisputed testimony of the landlord, I find the landlord had to have the unit repaired and cleaned before it could be re-rented and did so in a timely manner. I therefore find the landlord has established their claim to recover a loss of rent for March 2017. I find the landlord is entitled to \$1,575.00, the amount indicated on the tenancy agreement between the tenant and landlord.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee for a **total award of \$7,452.09**.

Item	Amount
Junk removal	\$700.00
Fireplace glass	\$879.38
House cleaning	\$630.00
Basement floor	\$2,094.90
Miscellaneous damage repair	\$788.51
Carpet cleaning	\$105.00
House cleaning	\$141.75
Closet door repair	\$63.78
Change Locks	\$136.92
Mailbox lock	\$116.85
Writ of possession	\$120.00
March rent	\$1,575.00
Filing fee	\$100.00
Total Claim	\$7,452.09

Conclusion

I issue a monetary order in the landlord's favour in the amount of **\$7,452.09**.

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: September 20, 2018

Residential Tenancy Branch