



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR-S, MNDC-S, FF

Introduction

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

- a monetary order for unpaid rent and 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 the filing fee for this application from the tenant pursuant to section 72.

The landlord attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence.

The landlord stated that the tenant was served with the notice of hearing package in person on February 12, 2018 with a witness. The landlord has provided a typed statement confirming service on February 12, 2018 and signed by both the landlord and the witness. The witness, A.K. attended the hearing via conference call and confirmed service as claimed by the landlord. The landlord stated that the amendment to the application increasing the monetary claim to \$3,129.60 and the submitted documentary evidence was served to the tenant in person on May 7, 2018 at the Surrey Provincial Courthouse.

I accept the undisputed evidence of the landlord and find that the tenant was properly served with the notice of hearing package, the amendment to the application for dispute and the submitted documentary evidence were served in person as claimed. Although

the tenant failed to attend the hearing, the tenant is deemed served as per section 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, for money owed or compensation for damage or loss and recovery of the filing fee?

Is the landlord 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.

This tenancy began on November 1, 2017 on a month-to-month basis. The monthly rent was \$2,200.00 payable on the 1st day of each month. A security deposit of \$1,100.00 was paid.

The landlord seeks an amended monetary claim of \$3,129.60 which consists of:

\$644.00	Cleaning and Junk Removal
\$285.60	Replace Damaged Entrance Door
\$2,200.00	Unpaid Rent, February 2018

The landlord claims that the tenant vacated the rental premises as a result of an order of possession granted for unpaid rent. The landlord upon possession discovered the rental premises dirty and damaged requiring extensive cleaning, removal of garbage and the replacement of the front entrance door. The landlord clarified that the front entrance door window was broken and that the cost of replacing just the window would exceed the cost of replacing the door.

In support of these claims the landlord has provided:

Copy of invoice for cleaning/junk removal for 644.00
Copy of invoice for new door of \$145.60

Analysis and Conclusion

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.

In this case, I accept the undisputed affirmed evidence of the landlord and find that the tenant vacated the rental unit leaving it dirty and damaged requiring cleaning, removal of garbage and the replacement of the front entrance door as the door window was broken by the tenant.

However, the landlord's monetary claim for unpaid rent of \$2,200.00 is unjustified. A review of the landlord's testimony, the submitted documentary evidence reveals insufficient evidence that the tenant had failed to pay rent for February 2018 of \$2,200.00. No tenant ledger or 10 Day Notice for Unpaid Rent was provided. On this basis, this portion of the landlord's claim is dismissed.

As such, I find that the landlord has established a total monetary claim of \$929.60. In offsetting these claims, I authorize the landlord to retain \$929.60 from the \$1,100.00 security deposit held. The landlord is also entitled to recovery of the \$100.00 filing fee. The landlord is ordered to return the balance due of \$70.40.

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 06, 2018

Residential Tenancy Branch