



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 635 EAST HASTINGS HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL, MNDCL-S, MNRL- S

Introduction

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

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- an order authorizing the landlord the recovery of the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted via teleconference and was attended by the landlord. No one was in attendance on behalf of the tenant. The landlord submitted documentary evidence that the tenant was served notice of this application and this hearing by registered mail on February 13, 2018. Canada Post tracking information was submitted in the landlord's evidence that shows that the item was unclaimed by the tenant. Based on the submissions of the landlord, I find the tenant was served in accordance to section 89 and 90 of the *Act*. Therefore, I continued in the absence of the tenant.

Issue to be Decided

Is the landlord entitled to a monetary award for unpaid rent or losses for this tenancy?
Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?
Is the landlord entitled to the recovery of the filing fee?

Background, Evidence

The landlord's undisputed testimony is as follows. The tenancy began on September 30, 2017 and ended on January 31, 2017. The tenant was obligated to pay \$620.00 per month in rent in advance and at the outset of the tenancy the tenant paid a \$310.00 security deposit which the landlord still holds. The landlord testified that the tenants rent cheques for November and December both "bounced" and that the landlord incurred NSF fees from their bank. The landlord testified that the tenant eventually paid the rent for November but not December. The landlord is seeking the recovery of the bank charges, the unpaid rent for December, the filing fee and the late fee for two months as per the tenancy agreement.

The landlord is applying for the following:

1.	NSF Fee November 2017	25.00
2.	Late Fee November 2017	25.00
3.	NSF Fee December 2017	25.00
4.	Late Fee December 2017	25.00
5.	December Rent	620.00
6.	Filing Fee	100.00
7.	Minus Deposit	-320.00
8.		
9.		
10.		
	Total	\$510.00

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 provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

The landlord provided extensive documentation to support their claim. Based on the landlords' documentation, their undisputed testimony and in the absence of any disputing evidence from the tenant, I find that the landlord is entitled to their claim of \$820.00.

Conclusion

The landlord has established a claim for \$820.00. I order that the landlord retain the \$310.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$520.00. This order may be filed in the Small Claims 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: September 10, 2018

Residential Tenancy Branch