



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1121 SEYMOUR, PETER WALL MANSION & ESTATES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCL-S, MNRL-S, FFL

Introduction

On June 20, 2018, the Landlord applied for a Dispute Resolution proceeding seeking a Monetary Order for unpaid rent pursuant to Section 67 of the *Residential Tenancy Act* (the “Act”), seeking a Monetary Order for cleaning and damage repair pursuant to Section 67 of the *Act*, seeking a Monetary Order for parking and key fob entry into the building pursuant to Section 67 of the *Act*, seeking to apply the security deposit and pet damage deposit towards these debts pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

M.H. attended the hearing as an agent for the Landlord; however, the Tenant did not attend the hearing. M.H. provided a solemn affirmation.

The Landlord’s agent advised that he served the Tenant the Notice of Hearing package and evidence by registered mail on June 21, 2018 (the registered mail tracking number is on the first page of this decision). In accordance with Sections 89 and 90 of the *Act*, and based on this undisputed testimony, I am satisfied that the Tenant was served the Landlord’s Notice of Hearing package and evidence.

The Landlord’s agent was given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order for unpaid rent?
- Is the Landlord entitled to a Monetary Order for cleaning and repairs of damage?
- Is the Landlord entitled to a Monetary Order for parking?
- Is the Landlord entitled to a Monetary Order for entry assistance into the building?

- Is the Landlord entitled to apply the security deposit and pet damage deposit towards these debts?
- Is the Landlord entitled to recover the filing fee?

Background and Evidence

M.H. stated that the tenancy started on November 1, 2017 and advised that the Tenant vacated the rental unit on June 14, 2018. Rent was established at \$1,875.00 per month, due on the first day of each month. A security deposit of \$937.50 and a pet damage deposit of \$400.00 were also paid.

The Landlord's agent submitted that the Tenant had not paid June 2018 rent so a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") was served to the Tenant on June 2, 2018 by posting to the Tenant's door. The Notice indicated that \$1,875.00 was outstanding on June 1, 2018 and the effective end date of the Notice was June 15, 2018. He advised that the Tenant vacated the rental unit on June 14, 2018.

M.H. advised that a move-in inspection report was conducted with the Tenant, but he refused to participate in a move-out inspection report, so one was conducted in his absence. He noted the deficiencies in the report and listed the outstanding fees as: unpaid rent at **\$1,875.00**, four hours of cleaning and patching holes totalling **\$100.00**, a lock out response of **\$50.00**, and parking of **\$150.00**. He submitted that the Tenant wrote his forwarding address onto a piece of cardboard before he left the property on June 14, 2018. The Landlord's agent stated that the Landlord was seeking a monetary award in the amount of **\$2715.00**.

With respect to the cleaning and patching of holes in the rental unit, he stated that this took four hours at a cost of \$25.00 per hour to rectify.

M.H. stated that the **\$50.00** monetary award that the Landlord was also seeking was for an after hours request for access to the rental unit. He advised that the Tenant was "stoned" in the garage at 12:08 AM on May 9, 2018 and forgot his key fob in his vehicle. The Tenant accessed the elevator and was then unable to get to his rental unit or back to his vehicle without the key fob. He submitted that the Tenant contacted the Landlord to allow him access to his vehicle to get his key fob. M.H. referenced the letter sent to the Tenant outlining the charge for such a service call, as outlined in the Rules and Regulations. M.H. also advised that the Tenant had done this once before and set off the fire alarm.

Finally, the Landlord's agent is seeking a monetary award of **\$150.00** for a monthly parking fee, and he referenced the Parking Agreement that was submitted into evidence where the Tenant agreed to the cost of parking every month.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

Section 38(1) of the *Act* requires the Landlord, within 15 days of the end of the tenancy or the date on which the Landlord receives the Tenant's forwarding address in writing, to either return the deposit in full or file an Application for Dispute Resolution seeking an Order allowing the Landlord to retain the deposit. If the Landlord fails to comply with Section 38(1), then the Landlord may not make a claim against the deposit, and the Landlord must pay double the deposit to the Tenant, pursuant to section 38(6) of the *Act*.

However, the undisputed evidence is that the forwarding address in writing was provided on June 14, 2018 and that the Landlord made the Application on June 20, 2018. As such, I am satisfied that the Landlord complied with the requirements of the *Act* with respect to the handling of the security deposit and pet damage deposit at the end of the tenancy.

With respect to the Landlord's claims for damages, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, "It is up to the party who is claiming compensation to provide evidence to establish that compensation is due", that "the party who suffered the damage or loss can prove the amount of or value of the damage or loss", and that "the value of the damage or loss is established by the evidence provided."

Based on the undisputed evidence before me, I am satisfied by M.H.'s testimony and evidentiary submissions that they have established a claim for a monetary award amounting to **\$1,875.00** for June 2018 rent arrears. Furthermore, I am satisfied by his undisputed testimony and evidence that he has established a claim for a monetary award amounting to **\$100.00**, **\$50.00**, and **\$150.00** for cleaning and repairs to damage, for the key fob assistance, and for the parking agreement.

As M.H. was successful in his claims, I find that the Landlord is entitled to the \$100.00 filing fee paid for this application. Under the offsetting provisions of Section 72 of the *Act*, I allow the Landlord to retain the security deposit and pet damage deposit in partial satisfaction of the debts outstanding.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlord a Monetary Order as follows:

Calculation of Monetary Award Payable by the Tenant to the Landlord

June 2018 rent	\$1,875.00
Cleaning and damage repair	\$100.00
Key fob assistance	\$50.00
Parking agreement	\$150.00
Recovery of filing fee	\$100.00
Security deposit	-\$937.50
Pet damage deposit	-\$400.00
TOTAL MONETARY AWARD	\$937.50

Conclusion

The Landlord is provided with a Monetary Order in the amount of **\$937.50** in the above terms, and the Tenant must be served with **this Order** as soon as possible. Should the Tenant 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: October 10, 2018

Residential Tenancy Branch