



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL, MNDL-S, MNDCL, FFL

Introduction

On June 26, 2018, the Landlord applied for a Dispute Resolution proceeding seeking a Monetary Order for rent arrears pursuant to Section 67 of the *Residential Tenancy Act* (the “*Act*”), seeking monetary compensation for cleaning, painting, repairs to damage, lock replacement, refuse removal, and bylaw fines pursuant to Section 67 of the *Act*, seeking to apply the security 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*.

The Landlord attended the hearing; however, the Tenant did not make an appearance. All in attendance provided a solemn affirmation.

The Landlord stated that she received the Tenant’s new address from an acquaintance of his. As well, his new landlord called her a few months ago and confirmed the Tenant’s new address. Therefore, she used this address to make her Application. She advised that she served the Tenant a Notice of Hearing package and evidence by registered mail on June 26, 2018 (the registered mail tracking number is on the first page of this decision) and the tracking history confirmed that the Tenant signed for this package. 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.

All parties were 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 rent arrears?
- Is the Landlord entitled to compensation for cleaning, painting, repairs to damage, lock replacement, refuse removal, and bylaw fines?
- Is the Landlord entitled to apply the security deposit towards these debts?
- Is the Landlord entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord stated that the most current tenancy started on October 1, 2017 and the tenancy ended when the Tenant vacated the rental unit on March 31, 2018. Rent was currently established at \$3,200.00 per month, due on the first day of each month. A security deposit of \$1,100.00 was also paid.

The Landlord advised that neither a move-in inspection nor a move-out inspection report was conducted with the Tenant.

The Landlord submitted that she was seeking rent arrears for June to December 2017 and January to March 2018. She stated that rent was \$3,000.00 for June through September 2017 and then rent increased to \$3,200.00 based on a new tenancy agreement that was signed on October 1, 2017 and was submitted into evidence. The total rent arrears for this period is \$31,200.00; however, she is only seeking to recover **\$28,000.00**. She submitted copies of insufficient funds receipts into evidence to support that the rent was in arrears.

The Landlord advised that she was seeking compensation for the repair, cleanup, and removal of refuse and she submitted an invoice for the total cost to rectify these issues. She stated that she negotiated with the company to do all of the work for a fee of \$20,000.00 total. She also submitted three pictures as evidence of the condition of the rental unit to support her claims.

In breaking down the \$20,000.00 claim, she stated that she was seeking compensation in the amount of **\$2,000.00** because the Tenant left piles of garbage, furniture, and heavy gym equipment, which filled up two big garbage disposal bins. She also stated that the Tenant left “sticky stuff” on the floor. This amount covers the cost of labour, cleaning, and delivery and disposal of the bins.

She then stated that she was seeking compensation in the amount of **\$5,300.00** because the kitchen cabinets were falling off, that the hardware had to be changed, that there were scratches in the kitchen, and that the kitchen was dirty.

The Landlord submitted that she was seeking **\$4,000.00** for the cost of repainting because there were many stains, marks, dirt, holes, and nail holes “almost everywhere” on the walls.

The Landlord submitted that she was seeking **\$3,100.00** for the cost of repairing broken tiles in the kitchen and replacing the wood floor of the master bedroom room due to the number of scratches.

The Landlord submitted that she was seeking **\$2,800.00** for the cost of repairing old cabinets in the bathroom, a broken shelf, drywall damage, and a crack in the side of the bathtub.

The Landlord submitted that she was seeking **\$2,100.00** for the cost of replacing all the locks and the remotes as the Tenant did not return them or the keys at the end of the tenancy. As well, the Tenant drove into the garage door and it would not open anymore, so it had to be replaced.

Finally, the Landlord submitted that she was seeking **\$900.00** for the cost of three bylaw fines that the Tenant incurred as he left garbage out and did not clean up pet feces. She submitted copies of these fines into evidence to support this claim.

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.

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."

Regarding the Landlord's claim for the rent arrears, the undisputed evidence before me is that the rent was owing and unpaid. As such, I am satisfied that the Landlord has substantiated a claim for outstanding rent, and I grant the Landlord a monetary award in the amount of **\$28,000.00** as this sum was the amount that she was seeking to recover only.

Regarding the Landlord's \$20,000.00 claim, I find it important to note that neither a move-in inspection report nor a move-out inspection report were completed, and the Landlord submitted only three pictures to substantiate this claim for damages. Based on these pictures, I am satisfied that the Tenant left a substantial amount of garbage and that the areas depicted in the pictures demonstrate that there was an element of untidiness. However, the Landlord has provided no evidence of furniture and heavy gym equipment being left behind or sufficient evidence that the kitchen cabinets were in such a condition that required replacing. Furthermore, she has provided no evidence to support her claims with respect to the condition of the walls, the broken kitchen tiles and scratched bedroom floor, or the damage in the bathroom.

As such, based on the sparse evidence provided, I find that the Landlord has substantiated a claim in the amount of **\$400.00** as compensation for the cost to dispose of garbage and clean up of the rental unit. Furthermore, based on the undisputed evidence, I am satisfied that the Tenant more likely than not vacated the rental unit without returning the keys or remotes. As such, I find that the Landlord has established a nominal claim in the amount of **\$100.00** to replace the locks and the remotes. As the Landlord has not provided sufficient or compelling evidence to support her other claims for damages, I dismiss those claims in their entirety.

With respect to the Landlord's claims for recovery of the bylaw fines, I am satisfied of the undisputed evidence provided that the Landlord has corroborated a claim for these

fines. As such, I grant the Landlord a monetary award in the amount of **\$900.00** as compensation for these fines.

As the Landlord was partially successful in her claims, I find that the Landlord is entitled to recover 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 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

Rent arrears	\$28,000.00
Cleaning and disposal of refuse	\$400.00
Replacement of locks and remotes	\$100.00
Bylaw fines	\$900.00
Filing fee	\$100.00
Security deposit	-\$1,100.00
TOTAL MONETARY AWARD	\$28,400.00

Conclusion

The Landlord is provided with a Monetary Order in the amount of **\$28,400.00** 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: November 7, 2018

Residential Tenancy Branch