



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNDL-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 July 26, 2018. Canada Post tracking information was submitted in the landlord's evidence that shows that the item was signed for and accepted by the tenant on July 30, 2016. Based on the submissions of the landlord, I find the tenant was served in accordance to section 89 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 damage arising out of 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 testimony is as follows. The tenancy began on April 15, 2018 and ended on July 15, 2018. The tenant was obligated to pay \$1990.00 per month in rent in advance the tenant paid a \$995.00 security deposit which the landlord still holds. The landlord testified that the tenant left the unit dirty and damaged at move out. The landlord testified that the unit was rented as "furnished". Written condition inspection reports were done at move in and move out. The landlord testified that many of the items supplied were damaged by the tenant. The landlord testified that the unit was left extremely dirty. The landlord testified that at the move out the tenant agreed that she could retain the security deposit and that he signed off on that. The landlord is looking for an additional \$887.65 to replace items such as cutlery, glassware, flatware and some minor damages throughout the unit.

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. I address the landlords claim and my findings as follows.

The landlord testified that she had some receipts for the replacement of the "furnished items", however did not submit them for this hearing. The landlord also submitted that she had "quotes" for work not yet done but will be done in the undetermined future.

The landlord had not been successful in this application for the following reasons. As noted above; to be successful in being granted a monetary order under section 67 of the *Act*, the applicant must satisfy all four factors as listed. The landlord did not provide a clear and detailed inventory list of items included with the "furnished suite", and did not provide receipts to prove the actual costs to replace those items and has not conducted much of the work that she has made a claim for. Based on all of the above, I find that the \$995.00 deposit which the tenant agreed and signed off on the move out condition inspection fully and appropriately satisfies the landlords' claim. The landlord has not provided sufficient evidence to show that she is entitled to anything beyond the security deposit. The landlord is entitled to retain the \$995.00 security deposit as

agreed between her and the tenant. The remainder of the landlords claim is dismissed due to insufficient evidence.

Conclusion

The landlords' application is dismissed in its entirety without leave to reapply.

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 27, 2018

Residential Tenancy Branch