



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL MNDCL-S MNDL-S MNRL-S

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking a monetary order for unpaid rent or utilities; a monetary order for damage to the rental unit or property; a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

The landlord company was represented at the hearing by an agent who gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call. The landlord's agent testified that the tenant was served with the Application for Dispute Resolution and notice of this hearing (the Hearing Package) by registered mail on August 27, 2018 and has provided a copy of a Registered Domestic Customer Receipt and a Canada Post cash register receipt bearing that date. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

All evidence provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenant for unpaid rent?
- Has the landlord established a monetary claim as against the tenant for damage to the rental unit or property?
- Has the landlord established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for strata moving fees, bailiff fees, Court fees, and registered mail costs?

- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord's agent testified that this fixed term tenancy began on May 15, 2017 and expired on May 31, 2018 thereafter reverting to a month-to-month tenancy which ultimately ended on July 30, 2018. Rent in the amount of \$5,900.00 per month was originally payable on the 1st day of each month, which was increased to \$6,135.00 per month effective June 1, 2018. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$2,950.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a 2 year old partially furnished condominium, and copies of the tenancy agreement as well as a Notice of Rent Increase have been provided as evidence for this hearing.

The landlord's agent further testified that the tenant fell into arrears of rent and the landlord was successful in obtaining an Order of Possession on June 20, 2018. The tenant did not pay any rent for July, 2018 and the landlord enforced the Order of Possession and the tenant was moved out by a Bailiff on July 30, 2018.

A move-in condition inspection report was completed by the parties on May 15, 2017 and a copy has been provided for this hearing. Since the tenant was moved out by a Bailiff, the landlord's agent completed the move-out condition inspection report in the absence of the tenant on July 31, 2018, and a copy has also been provided for this hearing. The landlord has also provided photographs of the rental unit which the landlord's agent testified were taken on July 30 or 31, 2018.

The rental unit was left with multiple unwanted items, and required suite cleaning, carpet cleaning and paint touch-ups, and could not be re-rented for August, 2018. Due to a flood on August 31, 2018, the rental unit has not yet been re-rented, however that is not related to this claim. The landlord claims unpaid rent for July, 2018 in the amount of \$6,135.00. The tenant provided the landlord with a forwarding address in an email on August 8, 2018, and a copy has been provided for this hearing, however the tenant has not served the landlord with an Application for Dispute Resolution claiming the security deposit.

The landlord has also provided a Monetary Order Worksheet setting out the following claims, totalling \$10,650.15:

- \$351.75 for suite cleaning and carpet cleaning;
- \$257.25 to dispose of items left behind by the tenant, cleaning and touch-up paint;

- \$1,515.93 for carpet replacement;
- \$66.47 replacement of the microwave door;
- \$6,135.00 for July, 2018 rent;
- \$2,010.07 for Court Bailiff costs;
- \$120.00 for the Writ of Possession fee;
- \$150.00 for a strata move-out fee; and
- \$43.68 for registered mail costs.

The landlord's agent further testified that contrary to the tenancy agreement, the tenant had a dog and despite cleaning, urine or something stained on the high end wool carpet which could not be removed, and the landlord purchased a less expensive replacement carpet for the 2 bedrooms, using existing underlay. It has not yet been installed due to the unrelated flooding, however an Invoice has been provided for this hearing. Also, the inside of the door of the microwave oven was burned at the end of the tenancy and had to be replaced. The landlord has provided copies of receipts or Invoices for the microwave oven door, suite cleaning, disposal of items and paint touch-up, carpet replacement, Court Bailiff costs, and strata moving fee rules. A copy of the Writ of Possession has also been provided.

Analysis

I have reviewed all of the evidentiary material of the landlord, and I am satisfied that the landlord has established a claim of \$6,135.00 for unpaid rent for July, 2018.

A tenant is required to leave a rental unit reasonably clean and undamaged at the end of a tenancy except for normal wear and tear. I have reviewed the photographs of the landlord, and I am satisfied that the landlord has established the following claims:

- \$351.75 for suite cleaning and carpet cleaning;
- \$257.25 to dispose of items left behind by the tenant, more cleaning and touch-up paint;
- \$1,515.93 for carpet replacement;
- \$66.47 replacement of the microwave door; and
- \$150.00 for a strata move-out fee.

With respect to Court Bailiff costs and the Writ of Possession fee, the *Residential Tenancy Act* states: **67** Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Although Court Bailiff costs are not part of the tenancy, I am satisfied that the tenant failed to comply with the *Act* requiring the landlord to incur costs to enforce an Order of Possession, and I accept the landlord's claims of \$2,010.07 for Court Bailiff costs and \$120.00 for the Writ of Possession fee.

The *Residential Tenancy Act* provides for recovery of a filing fee for an Application for Dispute Resolution, but not for costs incurred to serve documents or prepare for a hearing. Since the landlord has been partially successful with the application, the landlord is entitled to recovery of the \$100.00 filing fee, but not the claim of \$43.68 for registered mail.

Having found that the tenant is indebted to the landlord the sum of \$10,706.47, I order the landlord to keep the \$2,950.00 security deposit in partial satisfaction, and I grant a monetary order in favour of the landlord for the difference in the amount of \$7,756.47.

Conclusion

For the reasons set out above, I hereby order the landlord to keep the \$2,950.00 security deposit and I grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$7,756.47.

This order is final and binding and may be enforced.

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: December 28, 2018

Residential Tenancy Branch