



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MNDL-S MNRL-S

Introduction

This hearing was convened in response to applications by the landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

- a return of the filing fee pursuant to section 72 of the *Act*;
- an order to withhold the tenant’s pet and security deposit pursuant to section 38 of the *Act*; and
- a Monetary Order for unpaid rent pursuant to section 67 of the *Act*.

Only the landlord’s agent, H.S. (the “landlord”) attended by way of conference call which lasted twenty minutes. The landlord was given full opportunity to be heard, to present evidence and to make submissions.

The landlord gave undisputed testimony that a copy of the Application for Dispute Resolution hearing package, as well as the evidentiary package were sent to the tenant by way of Canada Post Registered Mail on August 6, 2018. A copy of the Canada Post tracking number was provided to the hearing by the landlord in his testimony. Pursuant to sections 88, 89 and 90 of the *Act*, the tenant is deemed served with the dispute resolution hearing and evidentiary package on August 11, 2018, five days after their posting.

Issue(s) to be Decided

Is the landlord entitled to a monetary award? Can the landlord recover the filing fee?

Background and Evidence

The landlord provided undisputed testimony that this tenancy began in January 2014 and ended in June 2018. Rent began at \$2,900.00 per month and rose to \$3,260.00 per month over the course of the tenancy. A security deposit of \$1,500.00 along with a pet

deposit of \$1,050.00 was paid by the tenant at the outset of the tenancy. These deposits continue to be held by the landlord.

The landlord sought a monetary award of \$18,393.00 in unpaid rent along with an award of \$5,027.50 for damage to the floors, walls, doors and shower, along with a return of \$472.50 in costs associated with hiring a private investigator to locate the tenant. The landlord said rent was paid infrequently between January 2016 and July 2016, and again infrequently between January 2017 and August 2017. The landlord said the tenant would on occasion make lump sums but he noted no regular payments were made.

As part of his evidentiary package the landlord referred to an email dated April 9, 2018 from the tenant to the landlord which acknowledged a balance of \$18,393.00 in unpaid rent remained outstanding. When asked to describe the aspects of his claim related to damage in the rental unit, the landlord said he was “less” concerned with that portion of the application and more concerned with the unpaid rent. The landlord said he had found a company that was “mostly” able to remediate the damage done to the rental unit, noting it had been “touched up.” The landlord stated due to the tenant’s absence, no condition inspection of the unit had been done at move-out and acknowledged only an informal “walk-through” had been done at the start of the tenancy.

Analysis

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply. 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.

The landlord provided undisputed testimony that unpaid rent of \$18,393.00 remained outstanding in the rental unit. This undisputed testimony was supported by an email dated April 9, 2018 from the tenant to the landlord which acknowledged the amount requested by the landlord did in fact remain outstanding.

Pursuant to section 67 of the *Act*, I find that the landlord is entitled to a monetary award of \$18,393.00 for unpaid rent. Using the offsetting provisions contained in section 72 of the *Act*, the landlord may withhold the tenant’s pet and security deposit in partial satisfaction for the money owed.

As the landlord was successful in his application, he may recover the \$100.00 filing fee pursuant to section 72 of the *Act*.

I decline to award the landlord any portion of his application related to damage to the rental unit or for location services. Section 67 of the *Act* allows me to award damages in relation to a violation of the tenancy agreement, the *Regulations* or the *Act*. I find the landlord's application as it relates to location services falls beyond the scope of compensation awarded under section 67, while the landlord failed to provide sufficient evidence in support of his application for damages to the rental suite.

Conclusion

I make a Monetary Order of \$15,943.00 in favour of the landlord as follows.

Amount	Item
Unpaid rent	\$18,393.00
Return of RTB Filing Fee	100.00
Less return of security deposit	(-1,500.00)
Less return of pet deposit	(-1,050.00)
Total =	\$15,943.00

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: December 4, 2018

Residential Tenancy Branch