



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, MNRL-S, FFL

Introduction

This teleconference was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the Act) for a Monetary Order for Damage - Security Deposit, for a Monetary Order for Rent and/or Utilities – Security Deposit, and for the recovery of the filing fee paid for this application.

The Landlord was present for the duration of the teleconference hearing, while no one called in for the Tenant during the length of the hearing which exceeded ten minutes. As the Tenant was not present, service of the Notice of Dispute Resolution Proceeding (the “Notice of Hearing”) was addressed.

The Landlord provided affirmed testimony that the Notice of Hearing along with the Landlord’s evidence package was sent to the Tenant by registered mail. The Landlord provided into evidence a confirmation page from Canada Post including the tracking number and showing that the package was signed for by the Tenant. As such, I find that the Tenant was duly served in accordance with Section 88 and 89 of the Act.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. 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 Damages?

Is the Landlord entitled to a Monetary Order for Unpaid Rent or Utilities?

Should the Landlord be allowed to retain the security deposit towards any compensation owed?

Should the Landlord be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

Background and Evidence

The Landlord provided undisputed testimony regarding the tenancy. The tenancy was a periodic tenancy that began in June of 2017 and ended in December 2017. Monthly rent was \$1450.00 and a security deposit of \$725.00 was paid at the outset of the tenancy.

The Landlord testified, and provided evidence in the form of texts from the Tenant, that the Tenant moved out prior to December 15, 2017 leaving his belongings behind. The Landlord testified that the Tenant indicated he was out of town and asked the Landlord to move his belongings out into storage so that the Landlord could use the unit again. The Landlord testified and provided undisputed evidence that the Tenant informed the Landlord on December 15, 2017 that he would be moving out as of January 1, 2018 and that the Landlord could use the security deposit to cover the costs of moving his belongings out for him. The Landlord testified that although the Tenant had subsequently arranged for movers to come get his belongings, they never showed up and the Landlord did not hear from the Tenant again for some time. The Landlord provided undisputed testimony that the Tenant did not ever provide a forwarding address nor come to retrieve his belongings out of storage until January.

The Landlord is claiming for damages and unpaid rent as follows:

The Landlord is claiming for the cost of general cleaning and carpet cleaning. The Landlord provided undisputed testimony and evidence showing that the rental unit was left dirty and full of the Tenant's belongings. The Landlord provided receipts for general cleaning in the amount of \$659.14 and carpet cleaning in the amount of \$125.00 both dated December 24, 2017. The Landlord testified and provided evidence that there was oil on the carpet, there were drugs and drug paraphernalia left behind, that the Tenant had smoked in the non-smoking unit and that the stove, refrigerator, cupboards and

walls were all very dirty. The Landlord testified that the RCMP had to be contacted and performed drug mitigation and removal before anyone was allowed to enter to clean as there was white powder, cannabis and other suspected drug matter throughout the unit. The Landlord also provided testimony and evidence that the Tenant had pets in the rental unit despite pets not being allowed in the rental unit.

The Landlord is claiming compensation for Strata fees paid by the Landlord for strata bylaw infraction fines for smoking. The Landlord provided undisputed testimony that the Landlord paid two fines of \$50.00 each for the Tenant's infractions which were included in a list of bylaw infractions levied against the Tenant by the Strata and provided by the Landlord into evidence.

The Landlord is claiming compensation for packing, moving and storing the Tenant's belongings. The Landlord provided undisputed testimony that it took three people seven hours to pack and move the Tenants belongings. The Landlord calculates that three people multiplied by seven hours at \$25 an hour equals \$525.00 for this work. The Landlord provided photo evidence of the rental unit before items were packed and moved.

The Landlord is claiming compensation for removal of junk left behind in the rental unit. The Landlord provided undisputed testimony and photo evidence justifying the necessity of junk removal and provided a receipt for \$134.40 for a junk removal company on December 21, 2017.

The Landlord is claiming compensation for the replacement of damaged blinds in the rental unit. The Landlord provided undisputed testimony and photo evidence that the blinds in the unit were broken and needed to be replaced. The Landlord provided a receipt for \$196.00 for replacement of the blinds.

The Landlord is also claiming compensation for loss of rent for January of 2018. The Landlord provided undisputed testimony that the Tenant gave notice to leave December 15, 2017 and did not pay rent for January 2018. The Landlord testified and provided evidence that they advertised the rental unit on December 26, 2017 and that they were able to rent the unit for February 2018.

Analysis

Based on the undisputed testimony and evidence of the Landlord, I find as follows for each of the monetary claims:

Cleaning and carpet cleaning: The Landlord claimed \$659.14 and \$125.00 respectively for cleaning and carpet cleaning. I accept the undisputed evidence and receipts provided by the Landlord that this cleaning was necessary and accept the evidence of the amount spent. Therefore, I find that the cleaning and carpet cleaning was required after the Tenant left the rental unit and award the Landlord \$659.14 and \$125.00 for the cleaning and carpet cleaning.

Strata fees: The Landlord claims \$100.00 for the payment of two \$50.00 strata bylaw violation fees the Landlord paid on the Tenant's behalf. I accept the evidence and receipts provided showing the Landlord incurred the cost of the fines that were based on the actions of the Tenant. Therefore, I award compensation of \$100.00 to the Landlord for the strata fees.

Packing, moving and storing: The Landlord claims \$525.00 for the work required to pack, move and store the Tenant's belongings after the Tenant left the rental unit. I accept the Landlord's undisputed testimony and photo evidence that three people were required to spend seven hours performing this work. Based on the photographs and testimony I find that this is probably a conservative estimate of the amount of work involved. Therefore, I award the Landlord compensation of \$525.00 for labour required to pack, move and store the Tenant's belongings left in the rental unit after they left.

Junk removal: The Landlord claims \$134.40 for the professional removal of junk from the rental unit. I accept the Landlord's undisputed testimony and photo evidence that a junk removal service was necessary to help make the rental unit fit for another occupant. Therefore, I award the Landlord compensation of \$134.40 for the payment of a junk removal company.

Replacement of broken blinds: The Landlord claims \$196.00 for the replacement of broken blinds in the rental unit. I accept the Landlord's undisputed testimony and photo evidence that the damage to the blinds in the rental unit was caused by the Tenant and that replacement was necessary. Therefore, I award the Landlord compensation of \$196.00 for the replacement of the blinds.

Loss of Rent: The Landlord claims \$1450.00 for the loss of one month's rent due to the late notice the Tenant gave to leave the rental unit and the inability of the Landlord to re-rent the unit for the month of January given the amount of time it took to make the unit able to be rented and the holidays.

As this was a periodic tenancy, I refer to section 45(1) of the Act which states:

45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

As such, I find that the Tenant's notice on December 15, 2017 to end the tenancy by January 1, 2018 was not in compliance with ending a tenancy under the Act.

I also note that a landlord has a duty to minimize their losses in accordance with section 7(2) of the Act. By preparing the unit as quickly as possible in the absence of communication from, or the presence of, the Tenant and advertising the unit for re-rental as soon as they reasonably could to secure a new tenant for February 1, 2018, I find that the Landlord took reasonable steps to minimize their loss.

I find that despite the actions of the Landlord to mitigate their loss they still experienced a loss of one month of rental income for January 2018 and I determine that the Tenant must compensate the Landlord for this loss. Therefore, I award the Landlord one month's rent in the amount of \$1450.00.

Security deposit: As the Landlord has applied to retain the security deposit towards compensation owed, I refer to section 39 of the Act which states the following:

Landlord may retain deposits if forwarding address not provided

39 Despite any other provision of this Act, if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy,

- (a) the landlord may keep the security deposit or the pet damage deposit, or both, and
- (b) the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.

Although the Landlord's sent the Notice of Hearing and submitted evidence to the Tenant at his parent's address and he signed for it, I accept the undisputed testimony of the Landlord that the Tenant never provided them with a forwarding address. Therefore, I find that the right of the Tenant to the return of the security deposit is extinguished and find that the Landlord is entitled to keep it.

Filing fee: As the Landlord was successful with their Application for Dispute Resolution, I award the recovery of the filing fee in the amount of \$100.00, pursuant to section 72 of the Act.

The Landlord will be issued a monetary order in the amount outlined below:

General cleaning	\$659.14
Carpet cleaning	\$125.00
Strata bylaw infraction fees x 2	\$100.00
Packing, moving and storage	\$525.00
Junk removal	\$134.40
Replacement of broken blinds	\$196.00
Loss of rent	\$1450.00
Filing fee	\$100.00
Less Security Deposit	-\$725.00
Total owing to Landlord	\$2,564.54

I believe that this decision has been rendered in compliance with the timelines set forth in section 77(1)(d) of the Act and section 25 of the *Interpretation Act*. In the event that this is not the case, I note that section 77(2) of the Act states that the director does not lose authority in a dispute resolution proceeding, nor is the validity of a decision affected, if a decision is given after the 30-day period in subsection (1)(d).

Conclusion

Pursuant to sections 67 and 72 of the Act, I grant the Landlord a Monetary Order in the amount of \$2564.54 for damages as outlined above, for rent owed for January 2018 and for the recovery of the filing fee for this application. The Landlord is provided with this Order 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: February 14, 2019

Residential Tenancy Branch