



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNDCL-S, MNRL-S, 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 tenants although the line remained open for ten minutes to allow the tenants to join the conference. The landlord gave sworn testimony that the tenants were personally served in the presence of a witness; notice of this application and hearing on December 7, 2018. Based on the submissions of the landlords, I find the tenants were served in accordance to section 89 of the *Act*. Therefore, I continued in the absence of the tenants.

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 **undisputed testimony** is as follows. The one year fixed term tenancy began on July 1, 2018, however the tenants ended the tenancy early by moving out on December 31, 2018. The monthly rent was \$1450.00 due on the first of each month and the tenants provided a security deposit of \$650.00 at the outset of the tenancy that the landlord still holds. The landlords testified that despite making aggressive efforts to rent the unit, they were unable to for the month of January 2019. The landlords testified that the tenants left the unit extremely dirty and left an excessive amount of garbage. The landlords are seeking the recovery of the lost rent, advertising, cleaning costs, garbage removal and the filing fee.

The landlord is applying for the following:

1.	Loss of Rent January 2019	\$1450.00
2.	Castanet advertising	84.00
3.	Carpet cleaning	183.75
4.	Window cleaning	110.25
5.	Garbage and dump run removal	200.00
6.	Blind cleaning	47.25
7.	Suite cleaning	331.80
8.	Filing fee	100.00
9.		
10.		
	Total	\$2507.05

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 landlords provided extensive documentation, the condition inspection report, **undisputed testimony**, receipts and photos to support their application. I find that the landlords are entitled to the entire amount as claimed and that pursuant to the offsetting clause under section 72 of the Act, they are entitled to retain the security deposit.

Conclusion

The landlord has established a claim for \$2507.05. I order that the landlord retain the \$650.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1857.05. This order may be filed in the Small Claims 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: March 28, 2019

Residential Tenancy Branch