



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TOTAL CONCEPT DEVELOPMENTS LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL, MNRL, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for unpaid rent and for damage to the unit, site or property pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:42 p.m. in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord provided undisputed sworn testimony and written evidence that they sent the tenant a copy of the landlord's dispute resolution hearing package and written evidence package on December 19, 2018. The landlord supplied a copy of the Canada Post Tracking Number and Customer Receipt to confirm this registered mailing and testified that the Online Tracking System of Canada Post confirmed that the package was successfully delivered to the tenant at the address provided by the tenant at the end of this tenancy. I find that the tenant was deemed served with these documents in accordance with sections 88, 89 and 90 of the *Act* on December 24, 2018, the fifth day after their registered mailing.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and for damage arising out of this tenancy? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The Respondent (the tenant) and a co-tenant signed a one-year fixed term Residential Tenancy Agreement (the Agreement) with the landlord on February 9, 2012 for a tenancy that was to run from March 1, 2012 until February 28, 2013. When the first term expired the tenancy continued as a month-to-month tenancy. Before the tenancy ended the parties signed a document releasing the co-tenant from any continuing responsibilities with respect to this tenancy. When this tenancy ended in September 2018, monthly rent was set at \$1,550.00, payable in advance on the first of each month. Although the landlord collected a \$775.00 security deposit and a \$250.00 pet damage deposit, the tenant gave the landlord written authorization to retain those deposits at the end of this tenancy.

The landlord's application for a monetary award of \$1,022.00 plus the recovery of the \$100.00 filing fee included the following items listed in the landlord's Monetary Order Worksheet submitted into written evidence by the landlord:

Item	Amount
Carpet Cleaning	\$262.50
Garage Door Openers	199.50
Partial September 2018 Rent Owing	525.00
NSF Fee for September 2018 Rent	35.00
Recovery of Filing Fee for this Application	100.00
Total Monetary Order Requested	\$1,122.00

The landlord supplied undisputed written evidence that the tenant participated in and signed joint move-in and joint move-out condition inspection reports on February 24, 2012 and October 1, 2018. At the time of the joint move-out condition inspection, the tenant also signed a document confirming that they had given the landlord authorization to retain the two deposits. The landlord also entered written evidence and sworn testimony that the tenant committed to repay the amount claimed in this application,

with the exception of the filing fee, on an instalment basis. At the hearing, the landlord testified that the tenant has failed to make any payments towards this amount owing.

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 prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant failed to pay the rent in full and caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

Based on the landlord's undisputed sworn testimony supported by written evidence, I find that the landlord has submitted sufficient evidence to establish that the tenant did not clean the carpets at the end of this tenancy, did not return the garage door openers to the landlord, nor did the tenant pay the September 2018 rent owing or the NSF fee for a cheque that was non-negotiable for September 2018. For these reasons and as the landlord has supplied receipts to document the losses claimed by the landlord, I allow the landlord's application for the monetary award requested.

Conclusion

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent, the NSF charge, the losses incurred for carpet cleaning and replacement of the garage door openers, and the filing fee for this application:

Item	Amount
Carpet Cleaning	\$262.50
Garage Door Openers	199.50
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NSF Fee for September 2018 Rent	35.00
Recovery of Filing Fee for this Application	100.00
Total Monetary Order Requested	\$1,122.00

The landlord is provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: April 09, 2019

Residential Tenancy Branch