



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

FFL MNDL-S

Introduction

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

- A monetary award for damages and loss pursuant to section 67; and
- Authorization to recover the filing fee from the tenants pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 10 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord appeared and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that the application for dispute resolution of January 15, 2019 was sent to each of the named respondents by registered mail on January 18, 2019 to a forwarding address they had provided. The landlord provided Canada Post tracking numbers as evidence of service. Based on the evidence I find that each of the tenants are deemed served with the landlord's application and evidence on January 23, 2019, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

At the outset of the hearing, the landlord made an application requesting to amend the monetary amount of the claim sought. The landlords indicated that since the application was filed they have incurred additional costs for repairs and cleaning. Pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure as additional repair and cleaning costs becoming apparent is reasonably foreseeable, I amend the landlords' Application to increase the landlords' monetary claim from \$4,506.26 to \$13,692.29.

Issue(s) to be Decided

Are the landlords entitled to a monetary award as claimed?

Are the landlords entitled to recover the filing fee from the tenants?

Background and Evidence

The landlord testified that this periodic tenancy began in July, 2017 and ended by December 2018 when the tenants had abandoned the rental unit. A security deposit of \$975.00 was collected at the start of the tenancy and is still held by the landlord. The landlord said that the tenants provided a forwarding address sometime in early January 2019.

The landlord submits that the rental unit was left in a state of disrepair by the tenants at the end of the tenancy. The landlord said that they incurred costs for cleaning and repairs. The landlord submitted into evidence numerous photographs showing the condition of the suite at the end of the tenancy and various receipts and invoices for work performed. The landlord testified that the work included cleaning and disposing of garbage, resodding and yard work, replacing blinds and repairing cabinetry and fixtures. The landlord said they performed much of the work themselves to mitigate their loss.

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.

I accept the landlord's evidence that the rental unit was in a state of disarray at the end of the tenancy as a result of the tenants' actions and negligence in maintaining the property. I accept the landlord's evidence that the rental unit required work to clean and repair and that the monetary amount of their losses is the amount claimed of \$13,692.29. Accordingly, I issue a monetary award in the landlord's favour in that amount for damages and loss.

As the landlord's application was successful the landlord may also recover the filing fee from the tenants.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenants' security deposit in partial satisfaction of the monetary award issued in the landlords' favour.

Conclusion

I issue a monetary Order in the landlords' favour in the amount of \$12,717.29.

The landlords are provided with these Orders in the above terms and the tenants must be served with this Order as soon as possible. Should the tenants 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: May 9, 2019

Residential Tenancy Branch