



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, FF

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 money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The landlord attended the hearing via conference call and provided undisputed testimony. The tenant did not attend. The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail. The landlord stated that no documentary evidence was received from the tenant. I accept the undisputed testimony of landlord and find that the tenant was properly served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, for money owed or compensation and recovery of the filing fee?

Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlord seeks a clarified monetary claim of \$1,020.00 which consists of:

\$720.00	Unpaid Rental Arrears, May 2017 to March 2018
\$200.00	Compensation, Damaged Balcony Gate
\$100.00	Recovery of Filing Fee

The landlord claims "that the tenant was late paying rent on multiple occasions and sometimes did not pay any rent". The landlord stated that on March 31, 2018 an agreement was made detailing the outstanding rental arrears owed by the tenant. The tenant signed in agreement acknowledging these arrears and the landlord has submitted a copy in support of this claim.

The landlord claims that the tenant damaged the balcony gate (for \$200.00) as shown in the submitted photograph and a print out of an online screen shot of a replacement gate for \$172.00, plus 12% in taxes (\$20.64), totalling \$192.64. The landlord also seeks compensation for transportation/gas/labour costs, but has failed to provide sufficient particulars for these claims. The landlord clarified that the rental has been re-rented and as yet the gate has not been replaced as there is no need for the current tenant to use the gate.

During the hearing the landlord clarified that she is not seeking an order to retain the security and/or pet damage deposits as the landlord has indicated that the tenant has already given permission to the landlord to retain it. As such, no further action is required for this portion of the claim.

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 caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

In this case, I accept the undisputed testimony of the landlord and find that the tenant was in arrears for rent of \$720.00 as per the submitted copy dated March 31, 2018 signed by both parties acknowledging the rental debt. On this basis, I find that the landlord has established a claim for \$720.00 in unpaid rent.

On the landlord's second portion of the claim, I accept the landlord's undisputed testimony that the tenant vacated the rental unit with a damaged balcony gate as shown in the submitted photograph. I also accept the landlord's undisputed testimony that a new gate would cost \$172.00 plus taxes (12%) totalling, \$192.64. No details of the remaining claims for transportation/gas/labour were provided and as such are dismissed. The landlord having been successful is also entitled to recovery of the \$100.00 filing fee.

Conclusion

The landlord is granted a monetary order for \$1,012.64.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the 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: May 2, 2019

Residential Tenancy Branch