



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

FFL MNDCL MNRL

Introduction

This hearing dealt with the landlord's 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 tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 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 attended and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served their application for dispute resolution and evidence on the tenant by registered mail sent on February 22, 2019 to an address at which the tenant resides. The landlord submitted a Land Title Search showing the tenant's address. The landlord submitted into evidence a copy of the Canada Post tracking information and a screenshot showing the landlord's package being received and signed for by the tenant. Based on the evidence I find that the tenant has been sufficiently served for the purposes of the *Act* and in accordance with sections 71, 88, 89 and 90 I find that the tenant is deemed served on February 27, 2019, five days after mailing.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

The landlord testified that the monthly rent for this periodic tenancy was \$1,300.00 payable on the first of each month. A security deposit of \$650.00 and pet damage deposit of \$650.00 were collected at the start of the tenancy and is still held by the landlord. The tenant failed to pay rent for the month of November 2018. The landlord said that the rental arrears as at the date of the hearing is \$1,300.00.

The landlord testified that they were provided with an Order of Possession in the earlier decision under the file number on the first page of this decision. The landlord said that they incurred costs to enforce that Order against the tenant. The costs incurred include filing the order, bailiff fees and court costs. In addition the landlord said that there were outstanding charges to the building's strata corporation as a result of the tenant's failure to return all keys and FOBs. The landlord submitted into documentary evidence the invoices and receipts for the expenses incurred. The landlord seeks a monetary award in the amount of \$4,386.17 for their losses incurred.

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 evidence of the landlord that monthly rent for this tenancy was \$1,300.00 payable by the first of each month. I accept that the tenant failed to pay the rent for November, 2018. As such, I find that the landlord suffered a monetary loss for rent in the amount of \$1,300.00 and issue a monetary award in that amount accordingly.

I accept the evidence of the landlord that they incurred various costs in order to enforce an Order of Possession granted in an earlier decision. I accept the landlord's evidence through testimony and documentary materials that the total amount of the losses is \$4,386.17. I find the receipts and invoices submitted to be sufficient to establish on a

balance of probabilities that the landlord suffered losses in the amount claimed. Accordingly, I issue a monetary award in the landlord's favour in the amount of \$4,386.17.

As the landlord was successful in their application they are entitled to recover the filing fee for their application.

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

Conclusion

I issue a monetary award in the landlord's favour in the amount of \$4,486.17.

The landlord is provided with the 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 the Order, the Order 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: June 6, 2019

Residential Tenancy Branch