



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNDL

Introduction

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

- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The landlord acknowledged receipt of evidence submitted by the tenant. The landlord testified that he provided extensive documentary evidence to the tenant and to the Branch; however neither the tenant nor the Branch received any documentation. The landlord was unable to provide sufficient proof of service of his documentary evidence, as a result, the hearing and proceeded and completed on that basis. The landlords' testimony was fully considered in making a decision. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issue to be Decided

Is the landlord entitled to a monetary award for damages and losses arising out of this tenancy?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background, Evidence

The landlord's testimony is as follows. The tenancy began on January 1, 2014 and ended on July 5, 2017. The tenants were obligated to pay \$1970.00 per month. The landlord testified the tenant caused extensive damage to the unit that required him to install new carpets, paint the entire suite, replace a countertop, light bulbs, repair interior and exterior doors. The landlord testified that he lost a month's rent to conduct the repairs. The landlord testified that the tenant did not cut the grass or shovel snow as required. The landlord testified that the tenant parked an extra car in the driveway without authorization. The landlord testified that the tenants' vehicles left oil stains in the driveway. The landlord testified that the tenant drove into the fence and damaged it. The landlord testified that the tenant left garbage strewn about the property that required him to remove it.

The landlord is seeking the following claims.

1.	Carpets	\$3100.00
2.	Repair to damaged walls	600.00
3.	Repair Bathroom and Sliding Door	300.00
4.	Paint the suite	2982.00
5.	Replace Kitchen Countertop	1575.00
6.	Missing Light Bulbs	60.00
7.	Repair Broken Fence	375.00
8.	Remove Oil Stains from Driveway	500.00
9.	Garbage Removal	120.00
10.	Snow Removal 15 X 30.00	450.00
11.	Cut Grass 11 x 30.00	330.00
12.	3 Rd Car Storage	720.00
13.	Loss of One Month Rent to do Repairs	2700.00
14.	Replace Electrical Cord	60.00
15.	Laundry Cabinet	100.00
16.	5 % Interest for outstanding repairs	1442.38
17.	Filing Fee	100.00
	Total	\$15514.38

The tenant gave the following testimony. The tenant adamantly denies the landlords allegations and disputes his entire application. The tenant testified that he was shocked when he received the Notice of Hearing Documents for this hearing as he had moved out 21 months prior and was not informed of any issues between him and the landlord. The tenant testified that he requested move in and move out condition inspections but was ignored by the landlord. The tenant testified that he left the unit clean and undamaged. The tenant testified that much of the allegations made by the landlord were for pre-existing damage and wear and tear to the unit. The tenant testified that he did shovel the snow and cut the grass and that he had the landlords' permission to park a third vehicle in the driveway. The tenant testified that he's not sure why the landlord has made all of these claims up so long after the tenancy ended. The tenant submits that the landlords' claim lacks merit and any proof and should be dismissed.

Analysis

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

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.

The landlord is seeking a monetary order but neglected to provide any supporting documentation. The landlord did not provide a copy of a move in and move out condition inspection report, photos or receipts to support his claim. The landlords witness gave very general information and lacked specifics such as the condition of the unit at move in versus move out. Based on the lack of the landlords' documentation before me, and the tenants disputing documentation and testimony, I dismiss the landlords claim in its entirety without leave to reapply.

Conclusion

The landlords' application is dismissed in its entirety without leave to reapply.

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 24, 2019

Residential Tenancy Branch