



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPITAL REGION HOUSING CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL MNDCL-S MNDL-S

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;
- Authorization to retain the security deposit for this tenancy pursuant to section 38; 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 corporate landlord was represented by their agents who were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The agent KK (the "landlord") primarily spoke on behalf of the corporate landlord.

The landlord testified that they served the tenant with the application for dispute resolution and evidence by registered mail sent on July 25, 2019 to a forwarding address provided by the tenant. The landlord provided a valid Canada Post tracking receipt as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord's materials in accordance with sections 88, 89 and 90 of the Act on July 30, 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 retain the security deposit for this tenancy?
Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

This periodic tenancy began in November, 2018 and ended June 30, 2019. A condition inspection report was prepared at both the start and end of the tenancy. A security deposit of \$794.00 was paid by the tenant and is still held by the landlord. The tenancy agreement also provides that the tenant is responsible for paying \$60.00 each month for parking.

The landlord submits that the rental unit required some cleaning and repairs due to the tenant's occupation and seeks a monetary award for their losses. The landlord submitted into evidence the condition inspection report showing the landlord's assessment of damages and the receipts showing the cost of cleaning. The tenant provided a forwarding address on the condition inspection report completed on June 30, 2019.

Analysis

Section 38 of the *Act* requires the landlord to either return all of a tenant's security deposit or file for dispute resolution for authorization to retain a security deposit within 15 days of the end of a tenancy or a tenant's provision of a forwarding address in writing.

In the present case the tenant provided a forwarding address prior to the end of the tenancy on June 30, 2019 and the landlord filed their application on July 15, 2019 within the 15 days provided under the *Act*.

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 there is an arrear of \$60.00 for unpaid parking fees for this tenancy. I find there is sufficient evidence by way of the tenant ledger and the testimony of the landlord to establish that there is an arrear in this amount and issue a monetary award accordingly.

I find there is sufficient evidence that the rental unit required some cleaning due to the tenancy. I find that the evidence provided by the landlord by way of the condition inspection report and receipts from third-party cleaning companies to be sufficient to establish that the cost for cleaning and repairs is \$375.00 as claimed by the landlord. Accordingly, I issue a monetary award in the landlord's favour in that amount.

As the landlord's application was successful the landlord may recover their filing fee.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$535.00 of the tenant's security deposit of \$794.00 in full satisfaction of the monetary award issued in the landlord's favour.

Conclusion

The landlord is authorized to deduct \$535.00 from the security deposit for this tenancy. The deposit is reduced by that amount to \$259.00.

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: November 1, 2019

Residential Tenancy Branch