



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNDCL-S, MNRL-S

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;
- authorization to retain the tenant's security deposit in satisfaction of the monetary order requested, pursuant to section 38; 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 tenant acknowledged receipt of evidence submitted by the landlord. The tenant did not submit any documentation for this hearing.

Issue(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and losses arising from this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

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

Background and Evidence

The landlord gave the following testimony. The tenancy began on May 1, 2019 and ended on August 31, 2019. The monthly rent of \$4100.00 was due on the first of each month. The tenant provided a security deposit of \$2000.00. The landlord returned \$1087.27 to the tenant and still holds the remaining \$912.73. Written condition inspection reports were done at move in and move out.

The landlord testified that the tenant was short \$100.00 rent for each month of July and August. The landlord testified that the tenant did not return one of the remotes to the garage and signed off on that as part of the move out inspection. The landlord testified that he purchased a new one at Home Depot for

\$51.57. The landlord testified that as part of the tenancy agreement, the tenant was responsible to pay for Fortis gas and was to put it in his name. The landlord testified that the tenant did not do that for the month of May and seeks the pro-rated amount of \$561.16 for 22 days in May 2019 due to the billing cycle. The landlord also seeks the recovery of the \$100.00 filing fee for a total claim of \$912.73; the exact amount that he still holds from the deposit.

The tenant gave the following testimony. The tenant adamantly disputes the landlords claims. The tenant testified that they had agreed to waive \$100.00 for each month of July and August to pay for the remotes that the tenant purchased. The tenant testified that the landlord has shown his true character by pursuing the claim for the remote. The tenant testified that "if the landlord wants the fifty bucks, he can have it". The tenant testified that the landlord was attempting to have the tenant pay for previous gas usage before he was even a tenant and because of ongoing gas leak. The tenant testified that the landlord has fabricated his claim. The tenant testified that he spent a lot of money fixing the home up and left it far better condition than he received it. The tenant testified that the remainder of the deposit should be returned to him.

Analysis

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.

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.

I address the landlords claim and my findings as follows.

Unpaid Rent - \$200.00

The landlord provided the signed tenancy agreement that reflects that the rent payable was \$4100.00 and documentation supporting the shortfall of \$200.00. Based on that documentation, I find that the landlord is entitled to \$200.00.

Remote – \$51.57

The landlord provided documentation to show that a remote was missing and the cost to replace it, based on that documentation; I find that the landlord is entitled to \$51.57.

Fortis Gas - \$561.16

The landlord provided documentation to show that the tenancy agreement did not include gas. The landlord also provided documentation to show that they paid the amount as claimed along with the tenant confirming that he did not pay the gas for the month of May 2019. Based on the above, I find that the landlord is entitled to \$561.16.

In summary, the tenant did not submit any documentation for this hearing. Although the tenant disputed the landlords claim in its entirety, the landlord had extensive supporting documentation for the remote, the unpaid rent, and the Fortis gas bill. Based on that documentation, I find that the landlord has provided sufficient evidence to support his claim and I find that he is entitled to retain the \$912.73 as requested.

Conclusion

The landlord is entitled to retain the remaining \$912.73 of the deposit in full satisfaction of his claim.

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: January 09, 2020

Residential Tenancy Branch