



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REALSTAR APARTMENT PARTNERSHIP 4 - WESLEY
PLACE and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCL-S, MNRL-S, FFL

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 its filing fee for this application from the tenant pursuant to section 72.

The landlord's agent (the landlord) attended the hearing via conference call and provided affirmed testimony. The tenants did not attend or submit any documentary evidence. The landlord stated that the tenants were served with the notice of hearing package and the submitted documentary evidence in person separately on October 24, 2019 and October 26, 2019. The landlord stated that she could provide a copy of video of the service if necessary and confirmed that it was not provided. I accept the undisputed testimony of the landlord and find that the tenants were both properly served as per sections 88 and 89 of the Act. Although the tenants did not attend, I find pursuant to section 90 of the Act that the tenants are deemed served.

At the outset, the landlord made a request to amend the monetary claim lowering it to \$4,253.00 as the tenants had vacated the rental unit at the end of October 2019 and that the landlord was no longer seeking compensation for loss of rent for November 2019. As such, I accept the landlord's amendment lowering the monetary claim as requested.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, for money owed or compensation for damage or loss 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 monetary claim of \$4,253.00 that consists of:

\$1,305.00	Unpaid Rent, August 2019
\$90.00	Unpaid Parking, August 2019
\$1,337.00	Unpaid Rent, September 2019
\$92.00	Unpaid Parking, September 2019
\$1,337.00	Unpaid Rent, October 2019
\$92.00	Unpaid Parking, October 2019

The landlord provided undisputed testimony that on October 11, 2019 a Residential Tenancy Branch Dispute Resolution Hearing was conducted as a result of an application filed by the tenants to cancel a 10 Day Notice dated August 6, 2019. The tenant failed to attend and as a result an order of possession was granted to the landlord pursuant to section 55 of the Act.

The landlord stated that the tenants failed to pay rent for August, September, October and October 2019 before vacating the rental unit on October 31, 2019. The landlord stated that the tenants failed to pay any rent from the date the 10 Day Notice was issued until the end of tenancy on October 31, 2019.

In support of these claims, the landlord submitted copies of:

Tenants' Rental and Parking Ledger
Residential Tenancy Branch Decision dated October 11, 2019
10 Day Notice dated August 6, 2019
Reminder Late Rent Payment Notice, dated August 4, 2019
Proof of Service Document, 10 Day Notice dated August 4, 2019

Notice of Rent Increase, dated May 30, 2019
Notice of Parking Increase Notice, dated April 23, 2019
Resident Renewal, Proof of Service, dated May 30, 2019
5 Previous copies of signed tenancy agreements between from September 1, 2013 to August 31, 2018.
Rental Parking Agreement dated September 1, 2013.

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.

I accept the undisputed evidence of the landlord and find that the landlord has justified their monetary claim for unpaid rent and parking owed by the tenants for \$4,253.00 as claimed. The landlord provided a copy of an undisputed 10 Day Notice dated August 6, 2019. The landlords provided undisputed testimony that the tenants failed to pay rent for August, September and October 2019. The landlords provided undisputed testimony that the tenants failed to pay parking rent for August, September and October 2019. The landlord provided undisputed testimony that the tenants occupied the rental unit until October 31, 2019.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee. I authorize the landlord to retain the \$530.00 security deposit paid on August 22, 2013 in partial satisfaction of this claim. No interest was accrued.

Conclusion

The landlord is granted a monetary order for \$3,823.00.

The tenants must be served with the monetary order. Should the tenants 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: March 13, 2020

Residential Tenancy Branch