



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL – S; MNDL -S; FFL

Introduction

This hearing dealt with the landlords' application for compensation for unpaid rent, damage to the rental unit; and, authorization to retain the security deposit. The landlords appeared for the hearing; however, there was no appearance on part of the tenant.

Since the tenant did not appear, I explored service of the hearing documents upon the tenant. The landlords submitted a registered mail receipt, including tracking number, as proof they sent the hearing documents and evidence to the tenant via registered mail on October 24, 2019. The landlord testified that the address used for service was the tenant's forwarding address that she provided during the move-out inspection on October 7, 2019 and recorded on the move-out inspection report. The move-out inspection report was also submitted as evidence.

The landlords testified that they sent three additional pages to the tenant on February 19, 2020, via registered mail; however, that package was not picked up by the tenant. The additional documents were notices issued to the tenant inviting her to participate in the move-out inspection and a copy of a Monetary Order issued under a previous dispute resolution proceeding. The landlord testified that the tenant did, in fact, participate in the move-out inspection so I did not consider the notices to be overly relevant to the matter before me. The landlord had intended to have the Monetary Order issued to him under a previous proceeding, in the amount of \$100.00 for recovery of the filing fee paid for that Application for Dispute Resolution that has yet to be satisfied, added to the Monetary Order I issue with this decision; however, Monetary Orders are not added together by the Residential Tenancy Branch. Rather, Monetary Orders may be enforced together in the appropriate forum. Accordingly, I did not further consider these documents or whether they were sufficiently served.

Issue(s) to be Decided

1. Are the landlords entitled to a Monetary Order for unpaid rent and damage?
2. Are the landlords authorized to retain the tenant's security deposit?

Background and Evidence

The tenancy started on May 1, 2019 on a month to month basis. The landlords collected a security deposit of \$800.00 and the tenant was required to pay rent of \$1,600.00 on the first day of every month.

The tenant failed to pay rent for September 2019 and the landlords served a 10 Day Notice to End Tenancy for Unpaid Rent. The landlords then applied for an Order of Possession by way of a previously Application for Dispute Resolution made under the Direct Request procedure (file number referenced on the cover page of this decision). The landlords succeeded in obtaining an Order of Possession on September 24, 2019.

The landlord testified that the tenant returned possession, including the keys, to the rental unit on October 7, 2019. The parties also participated in a move-out inspection together on that same date. The tenant provided her forwarding address on the inspection report but indicated she did not agree with the landlord's assessment of the condition of the unit.

The landlords submitted that the tenant never did pay the outstanding rent for September 2019 and they seek recovery of the unpaid rent for that month.

The landlords also submitted that the tenant damaged the walls and the bathroom door beyond reasonable wear and tear. The landlords submitted that the unit was renovated shortly before the tenancy commenced. The landlords paid for repairing these items in the amount of \$150.00 and they seek to recover that expense from the tenant.

Evidence for this proceeding included a copy of: the tenancy agreement; the condition inspection report; several photographs; and, a receipt for payment of \$150.00 to rectify the damage.

Analysis

Under section 26 of the Act, a tenant is required to pay rent when due under the terms of their tenancy agreement unless they have a legal right under the Act to withhold rent.

I accept the unopposed evidence before me that the tenant was required to pay rent of \$1,600.00 that was due on September 1, 2019 and she failed to do so. I was not provided any evidence to suggest the tenant had a legal right under the Act to withhold rent. Therefore, I award the landlords recovery of the unpaid rent for September 2019 in the amount of \$1,600.00, as claimed.

Section 32 of the Act provides that a tenant is required to repair damage caused to the rental unit or residential property by their actions or neglect, or those of persons permitted on the property by the tenant. Section 37 of the Act requires the tenant to leave the rental unit undamaged at the end of the tenancy. However, sections 32 and 37 provide that reasonable wear and tear is not considered damage. Accordingly, a landlord may pursue a tenant for damage caused by the tenant, or a person permitted on the property by the tenant due to their actions or neglect, but a landlord may not pursue a tenant for reasonable wear and tear or pre-existing damage.

Upon review of the condition inspection report, the photographs and the receipt, the landlords' testimony, and the absence of any opposition, I find I am satisfied the tenant is responsible for damaging the rental unit beyond reasonable wear and tear and her actions caused the landlords to suffer a loss of \$150.00. Therefore, I grant the landlord's request to recover \$150.00 from the tenant.

Since the landlords' application had merit, I further award the landlords recovery of the \$100.00 filing fee they paid for this Application for Dispute Resolution.

I authorize the landlords to retain the tenant's security deposit in partial satisfaction of the amounts I have awarded to the landlords.

In keeping with all of the above, I provide the landlords with a Monetary Order to serve and enforce upon the tenant, calculated as follows:

Unpaid rent – September 2019	\$1,600.00
Damage	150.00
Filing fee paid for this application	100.00
Less: security deposit	<u>(800.00)</u>
Monetary Order	\$1,050.00

Conclusion

The landlords are authorized to retain the tenant's security deposit and the landlords are provided a Monetary Order for the balance of \$1,050.00 to serve and enforce upon the tenant.

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 12, 2020

Residential Tenancy Branch