



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL, FF

Introduction

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

- a monetary award for money owed or compensation for loss under the *Act* pursuant to section 67 of the *Act*; and
- recovery of the filing fee from the landlord pursuant to section 72 of the *Act*.

Only the applicant landlord attended the hearing. The landlord was provided a full opportunity to present submissions, undisputed testimony and evidence.

The landlord explained that he sent a copy of his Application for Dispute Resolution to the tenant by way of Canada Post Registered Mail on January 2, 2020. A copy of the Canada Post tracking number was provided to the hearing by the landlord. Pursuant to sections 88, 89 & 90 of the *Act*, the tenant is deemed to have been served with this application, evidence and hearing notice on January 7, 2020, five days after its mailing.

Issue(s) to be Decided

Is the landlord entitled to a monetary award? Can the landlord recover the filing fee?

Background and Evidence

The landlord explained the tenancy began on May 15, 2019 and ended on October 31, 2019. Rent was established at \$3,500.00 per month, and a \$1,750.00 security deposit was collected. The landlord said he was provided with various orders following a successful Direct Request proceeding in 2019 during which he was granted an Order of Possession, a Monetary Award and an order allowing him to retain the security deposit.

The landlord seeks a monetary award of \$2,200.00 along with a return of his filing fee. The landlord testified that the figure cited above represented fines he had incurred during the tenancy as a result of the tenant's misuse of the rental unit. Specifically, the landlord said the tenant had allowed the unit to be used as a short-term rental unit, contrary to the strata's by-laws. Additionally, he was fined by the strata for an improper storage infraction. The landlord testified the fines were levied by the building's strata on July 28, 2019, August 6, 2019 and August 15, 2019.

No evidence or submissions were provided by the tenant.

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 his claim for a monetary award.

At the hearing, the landlord explained that he had incurred loss as a result of the fines issued against him by the building's strata. The landlord provided both testimony and written documentation in support of these costs.

Residential Tenancy Policy Guideline #16 notes, "The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due." This *Guideline* continues by explaining, "the party who suffered the damage or loss can prove the amount of or value of the damage or loss." I find that the landlord has accurately shown through evidence and testimony the extent of the loss he has incurred. I therefore grant the landlord the entire amount sought in his application.

As the landlord was successful, the landlord may recover the \$100.00 filing fee.

Conclusion

I issue a Monetary Order of \$2,300.00 to the landlord.

The landlord is provided with a Monetary Order in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this 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: May 29, 2020

Residential Tenancy Branch