



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC MNSD MNR FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on May 8, 2020. The Landlord applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord attended the hearing. The Tenant did not attend the hearing. The Landlord stated that he sent the Tenant a copy of the Notice of Hearing by registered mail, on December 9, 2019, to the forwarding address provided to him. The Landlord confirmed he received the Tenant's forwarding address by text message on November 29, 2019. I note the Landlord could not locate the tracking information for this package, but he was able to articulate what he included with this package, and when he sent it. I find the Landlord has sufficiently served the Tenant with this Notice of Hearing.

The Landlord sent a second package, containing his evidence, by registered mail on April 20, 2020. The Landlord was able to provide tracking information for this package, which shows that it was delivered on April 23, 2020. I find the landlord sufficiently served the Tenant with his evidence package.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Landlord entitled to a monetary order for rent or for damage or loss under the Act?
- Is the Landlord entitled to retain all or a portion of the Tenants' security deposit in partial satisfaction of the monetary order requested?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord stated that monthly rent was \$2,900.00 and was due on the first of the month. The Landlord confirmed that he holds a security deposit in the amount of \$1,400.00. The Landlord stated that last fall, he obtained an order of possession against the Tenant, but she failed to obey the order, which specified that she was to vacate the unit by October 31, 2019. As such, The Landlord stated that he had to hire a bailiff to come and evict the Tenant. The Landlord is seeking to recover some of the related costs, summarized below.

The Landlord provided a monetary order worksheet which speaks to the items as follows:

1) \$700.00 – Per diem rent for November

The Landlord stated that the Tenant never paid any rent for November 2019, and she did not vacate the unit until November 7, 2019, which is the day the bailiff came to evict her. The Landlord is seeking a per diem rate ($\$2,900.00/30 \text{ days} = \96.66) times by 7 days. In summary, the Landlord wants to recover \$96.66 per day for the first 7 days of November, as these are the days she was living in the unit without paying. The Landlord clarified that the actual total for this amount is $\$96.66 \times 7 = \676.62 .

2) \$264.98 – Cleaning

The Landlord stated that the Tenant did not clean up anything before she left, and the carpets required cleaning, the kitchen and appliances were dirty, and there was general dirt and debris all over. The Landlord stated he did the cleaning himself, and he provided a breakdown of this amount. He stated that he spent 4 hours cleaning the carpets (which he is seeking \$30.00/hour), \$22.99 for carpet shampoo, \$31.99 for carpet cleaner rental. The Landlord also stated that he spent 3 hours cleaning the

remainder of the unit (doors, windows, appliances) for which he is seeking \$30.00 per hour for his time.

- 3) \$120.00 – Writ of Possession Fee
- 4) \$2,024.30 – Bailiff Service Charges

The Landlord provided receipts for both of these items, and stated that these are the direct costs he had to pay to have the Tenant removed from his property after she failed to obey the order of possession he was given by our branch.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim.

In this instance, the burden of proof is on the Landlord to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenants. Once that has been established, the Landlords must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did everything possible to minimize the damage or losses that were incurred.

With respect to the first item, I note the Landlord had listed \$700.00 as an estimate for 7 days worth of rent. However, during the hearing, he clarified what rent was, and the amount he is seeking is slightly less. The Landlord clarified that the actual total for this amount is $\$96.66 \times 7 = \676.62 . Since the Tenant lived in the rental unit for this period, and did not pay, I find the Landlord is entitled to recover this amount, in full. I award \$676.62.

With respect to the second item, I accept, based on the undisputed testimony, that the Landlord had to clean up after the Tenant was evicted by the bailiff. I find the Landlord's costs and estimates are reasonable for this item, and I award this amount in full for the Tenant's failure to clean up properly and to compensate the Landlord for his time and expenses incurred to restore the unit. I award \$264.98.

With respect to items 3 and 4, I award both of these items in full, as the Tenant failed to move out as per the order of possession issued against her. The order of possession stated that she had to vacate the unit by October 31, 2019. However, the Tenant did not leave, and the Landlord had to apply for and hire a bailiff to come on November 7, 2019,

which the Landlord provided receipts for. The Landlord had to incur and pay for \$2,144.30, based on the sum of the items 3 and 4.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was substantially successful with his application, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution. Also, I authorize the Landlord to retain the security and pet deposit to offset the other money owed.

In summary, I find the Landlord is entitled to the following monetary order:

Item	Amount
Unpaid Rent	\$676.62
Cleaning Costs	\$264.98
Bailiff Costs/fee	\$2,144.30
PLUS: Filing Fee	\$100.00
Subtotal:	\$3,185.90
LESS: Security Deposit	\$1,400.00
Total Amount	\$1,785.90

Conclusion

The Landlord is granted a monetary order in the amount of **\$1,785.90**, as specified above. This order must be served on the Tenants. If the Tenants fail to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be 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 08, 2020

Residential Tenancy Branch