



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MND, MNR, FFL

Introduction

On January 6, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement; a monetary order for loss of rent and damage to the rental unit; and to recover the cost of the filing fee for the Application.

The matter was set for a conference call hearing. The Landlord and the Landlord's translator attended the hearing; however, the Tenants did not.

The Landlord testified that the Tenants were served with the Notice of Dispute Resolution Proceeding by registered mail sent on January 21, 2020. The Landlord testified that the registered mail was delivered on January 24, 2020. The Landlord testified that the Tenant's mother, who co-signed the tenancy agreement but lived elsewhere, provided her address to the Landlord at the start of the tenancy. The Landlord testified that the registered mail was sent to the Tenant's mother's address. The Landlord provided the registered mail receipts and tracking numbers for the registered mail that was sent to both Tenants.

I find that the Notice of Dispute Resolution Proceeding was served in accordance with sections 89 and 90 of the Act is deemed to have been received on January 26th, the fifth day after it was mailed.

The hearing proceeded and the process was explained, and the Landlord was asked if they had any questions. The Landlord provided affirmed testimony. The Landlord was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Preliminary and Procedural Matters

The Landlord applied on January 6, 2020 and the Landlord's application that was served to the Tenants provides that the Landlord is seeking compensation of \$5,167.25. The Landlord provided a monetary order worksheet dated January 13, 2020 in the amount of \$8,981.25. The Landlord did not amend the original application to increase the amount of compensation being claimed.

I find that the Landlords monetary claims are limited to the amount of \$5,167.25 as indicated in the Notice of Dispute Resolution Proceeding that is deemed served on the Tenants.

Issues to be Decided

- Is the Landlord entitled to a money owed or compensation for damage or loss?
- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Is the Landlord entitled to a monetary order for damage and cleaning?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord testified that the tenancy began on July 22, 2019, as a one-year fixed term tenancy. The Landlord testified that rental unit is located on a property with a strata council. The Landlord testified that the Tenant agreed to comply with the strata rules and pay any strata fines for violations of the rules. The Landlord testified that the Tenant signed a form K agreeing to follow the strata rules.

Rent in the amount of \$3,500.00 was to be paid to the Landlord by the 22nd day of each month. The Tenants paid the Landlord a security deposit of \$1,750.00. The Landlord testified that the Tenant moved out of the rental unit on December 29, 2019. The Landlord provided a copy of the tenancy agreement.

The Landlord is seeking \$3,500.00 for December 2019 rent. The Landlord testified that the December rent cheque was returned due to insufficient funds. The Landlord provided a copy of the returned cheque.

The Landlord is seeking \$400.00 for cleaning costs. The Landlord testified that the Tenant left the rental unit unclean and abandoned furniture in the unit. The Landlord testified that a person was hired to clean the rental unit and was paid \$350.00. The Landlord testified that they are seeking \$50.00 for the cost to remove and dispose of a mattress, sofa, desk, table, and television unit.

The Landlord is also seeking to recover the amount of \$467.25 that was paid to the building strata for cleaning the exterior windows and frame, glass and floor of balconies. The Landlord testified that in September 2019 the Tenant had a pet in the unit that urinated on the balcony and ran down the building affecting the windows and balconies located below. The Landlord provided two letters from the strata council regarding the charge back for cleaning. The Landlord provided two invoices from a property service provider for cleaning services in September 2019 and October 2019 amounting to \$467.25.

The Landlord is seeking to recover the amount of \$500.00 due to strata fines assessed to the Landlord. The Landlord provided testimony regarding the following bylaw fines due to strata rule violations;

<u>Strata Letter Date</u>	<u>Issue</u>	<u>Incident Date</u>	<u>Fine</u>
October 30, 2019	Cigarette butts thrown from balcony	September 5, 2019	\$100.00
November 28, 2019	Cigarette butts thrown from balcony	September 21, 2019	\$100.00
November 28, 2019	Parking violation	October 3, 2019	\$100.00
October 30, 2019	Parking violation; handicap spot	October 7, 2019	\$200.00

The Landlord testified that the Tenant was spoken to after the Landlord was informed of each infraction. The Landlord testified that the Tenant informed the Landlord that he would pay the fines but never did. The Landlord testified that the Landlord paid the fines to the strata council.

Analysis

The Residential Tenancy Branch Policy Guideline #3 Claims for Rent and Damages for Loss of Rent deals with situations where a Landlord seeks to hold a Tenant liable for loss of rent after the end of a tenancy agreement. The Guideline provides:

The damages awarded are an amount sufficient to put the landlord in the same position as if the tenant had not breached the agreement. As a general rule this includes compensating the landlord for any loss of rent up to the earliest time that the tenant could legally have ended the tenancy.

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I make the following findings:

December 2019 Rent

I find that the tenancy agreement requires the Tenants to pay rent of \$3,500.00 each month. I accept the Landlord's testimony and evidence that the rent cheque for \$3,500.00 dated December 16, 2019, was returned to the Landlord due to insufficient

funds. I find that the Tenant moved out of the rental unit prior to the end of the fixed term tenancy agreement and owes the Landlord \$3,500.00 for December 2019 rent.

Cleaning Costs

The Landlords claim for cleaning costs is dismissed. The Landlord provided insufficient evidence to prove that the Tenant left the rental unit unclean and abandoned furniture in the unit. The Landlord did not provide any photographic evidence or receipts for the cost of cleaning and disposal of furniture to prove the Landlord suffered a loss and to establish the value of loss.

Balcony Cleaning Costs

I accept the Landlords testimony and evidence that the windows and balconies located below the Tenant needed to be cleaned due to pet urine. I find that the Tenants are responsible for any damage or cleaning costs associated with having a pet in the rental unit. The Landlord provided invoices in support of the Landlords loss.

I award the Landlord the amount of \$467.25 for property cleaning services.

Strata Fines

I accept the Landlord's testimony and evidence that the Tenant is responsible under the tenancy agreement to pay strata fines for infractions. I accept the Landlord's evidence that the Tenants are responsible for the infractions and fines as described within the strata letters.

I award the Landlord the amount of \$500.00.

Filing Fee

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenants to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

Monetary Award

I find that the Landlord has established a total monetary claim of \$4,567.25 comprised of unpaid rent; strata fines; cleaning services; and the \$100.00 fee paid by the Landlord for this hearing.

I grant the Landlord a monetary order in the amount of \$4,567.25. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenants are cautioned that costs of such enforcement are recoverable from the Tenants.

Conclusion

The Landlord was successful with claims for a loss of rent, cleaning costs, and strata fines.

The Landlord is granted a monetary order in the amount of \$4,567.25

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: July 1, 2020

Residential Tenancy Branch