



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDCL-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 the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the landlord served the tenant with the notice of hearing package and the submitted documentary evidence via email on June 12, 2020. The tenant confirmed that she did not submit any documentary evidence. Neither party raised any service issues. I accept the undisputed affirmed evidence of both parties and find that both parties have been properly served as per sections 88 and 89 of the Act.

During the hearing the landlord stated that she no longer wished to have her agent, J.F. speak on her behalf. The landlord then called her daughter, W.P. to act as her agent and translate (Mandarin) for the landlord.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, for money owed or compensation 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.

This tenancy began on February 14, 2020 on a fixed term tenancy ending on February 28, 2021 as per the submitted copy of the signed tenancy agreement dated January 28, 2020. The monthly rent was \$1,400.00 payable on the 1st day of each month. A security deposit of \$700.00 was paid on February 14, 2020.

The landlord seeks a clarified monetary claim of \$1,700.00 which consists of:

\$1,400.00	loss of rent, June 2020
\$200.00	Cleaning
\$100.00	Filing Fee

During the hearing the landlord clarified that the monetary claim was for a \$200.00 cleaning charge instead of a \$100.00 claim filed with the application.

The landlord claims that the tenant vacated the rental unit without proper 1 months notice by notifying the landlord on May 13, 2020 that she was moving out on May 30, 2020 via email. The landlord has submitted a copy of the email dated May 13, 2020. The tenant confirmed the notice on May 13, 2020 and vacating the rental unit on May 30, 2020. The landlord stated that she immediately had the unit advertised for rent having 7 people call-in, 5 showings, but without any success in re-renting the unit. Both parties provided extensive testimony on the fact that the tenant had moved to Edmonton to reclaim her home and that the landlord suffered a loss in revenue because of the loss of June rent due to the current Pandemic. The landlord repeatedly stated that as a result she was having issues with her mortgage.

The landlord also seeks compensation as the tenant vacated the rental unit leaving it dirty requiring cleaning. The landlord stated that she was originally quoted \$100.00 for cleaning but was later charged \$200.00. The tenant disputes the landlord's claim only stating that the unit was left only partially dirty. The tenant stated that she had a cleaning service provide an estimate for cleaning and was told that it should have only been for two hours total of cleaning required. The landlord did not provide any documentary proof of payment or services for the cleaning.

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.

Section 45 (2) of the *Act* states in part that a tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the landlord receives the notice.

In this case, I accept the undisputed affirmed evidence of both parties that the tenant vacated the rental unit on May 30, 2020 after providing notice on May 13, 2020 to end the fixed term tenancy. The landlord provided undisputed affirmed testimony that she immediately began advertising the rental unit on May 13, 2020 and despite having 7 calls of interest and 5 showings, no one requested to rent the unit. I find that the tenant failed to provide proper 1 months notice and that the landlord made reasonable efforts to mitigate any possible losses in rent by advertising it immediately on May 13, 2020 upon being notified. On this basis, I find that the landlord has provided sufficient evidence to satisfy me of the claim for loss of rent of \$1,400.00.

On the landlord's claim for cleaning of \$200.00, I find that the landlord has been unsuccessful. Although the tenant confirmed that the rental unit was left only partially dirty, the tenant disputed the landlord's monetary amount of \$200.00 for cleaning. The tenant stated that she received an estimate from a cleaning service that the amount of time required to complete the cleaning would be only 2 hours. Although the landlord claimed that she had a receipt and photographs of the unit at the end of tenancy the landlord failed to provide any supporting evidence on the condition of the rental unit and did not provide any supporting evidence of the \$200 cleaning claim. However, as the tenant has confirmed that the rental was left partially cleaned and that it would require approximately 2 hours of cleaning, I grant the landlord a nominal award for cleaning of \$100.00.

The landlord having been partially successful is entitled to recovery of the \$100.00 filing fee. I authorize the landlord to retain the \$700.00 security deposit in partial satisfaction of this claim.

Conclusion

The landlord is granted a monetary order for \$900.00.

This order must be served upon the tenant. Should the tenant fail to comply with this 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: July 10, 2020

Residential Tenancy Branch