



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC 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 September 24, 2020. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit and for damage or loss under the Act; and,
- to recover the cost of the filing fee.

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 and evidence by email on May 21, 2020. The Landlord stated he sent this Notice of Hearing and evidence to the same email address he routinely used for communication with the Tenant during the tenancy.

I find it important to note that the Residential Tenancy Branch has recognized the challenges and immense impacts that the COVID-19 pandemic has had on landlords and tenants. As such, the Government has made some changes to assist landlords and tenants manage through COVID-19.

Service provisions are typically laid out in section 88, 89 and 90 of the Act. Some of these provisions have been modified and the Director has issued practice directives. For example:

At the time this application was filed, personal (in-person) service of documents was not a valid method of service in order to reduce potential transmission of COVID-19. To

assist landlords and tenants work around this restriction, the Director of the Residential Tenancy Branch has issued a Director's Order to allow service by email during the state of emergency. Email service was allowed from mid-March 2020, until June 24, 2020. Given this application was made within that time frame (application was filed on May 20, 2020) I find email service is an acceptable method of service for the Landlord's application and evidence, even if some documents were sent outside of the director's order for allowing email service (the Landlord sent some documents after June 24, 2020, by email).

Emailed documents will be deemed received as follows:

- If the document is emailed to an email address and the person confirms receipt by way of return email, it is deemed received on the date receipt is confirmed;
- If the document is emailed to an email address, and the person responds to the email without identifying an issue with the transmission, viewing the document, or understanding of the document, it is deemed received on the date the person responds.
- If the document is emailed to an email address from an email address that has been routinely used for correspondence about tenancy matters, it is deemed received three days after it was emailed.

I find the Tenant is deemed to have received the initial Notice of Hearing and evidence on May 24, 2020, 3 days after it was emailed to the address routinely used for communication. Also, I note our office rescheduled the hearing, and sent a new Notice of Hearing to the Landlord on August 5, 2020, with a new date and time. The Landlord stated he sent this new Notice of Hearing and evidence to the Landlord by email on August 5, 2020. I find the Tenant is deemed to have received these documents on August 8, 2020, 3 days after they were sent. I find the Landlord sufficiently served the Notice of Hearing and his evidence to the Tenant for the purposes of this hearing.

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 damage to the unit and for damage or loss under the Act?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

During the hearing, the Landlord testified that the Tenant moved out of the rental unit on January 31, 2020. The Landlord stated that the Tenant left the unit without doing any cleaning. The Landlord does not hold a security deposit.

The Landlord stated that monthly rent was set at \$1,735.00, and was due on the first of the month.

The Landlord provided many photos of the mess left behind, both inside the house, and in the yard. The landlord also provided receipts for all of the below amounts:

- 1) \$450.00 – Junk Removal by C.P.
- 2) \$400.00 – Horse Dung Removal
- 3) \$1,350.00 – Junk Removal by V.C.

The Landlord pointed to the photos to show that the Tenant had horses, and piled up large amounts of horse manure next to the house which had to be removed. The Landlord also stated that he had to hire C.P. to come and dispose of a load of garbage, but his truck was not big enough, which is why V.C. had to be brought in. Both C.P and V.C. provided bills which are included as evidence. The Landlord stated that the Tenant left behind trailers, debris, personal items, canopies, and an “enormous” amount of trash. The Landlord stated it took a full month to clean up the property, due to the mess.

- 4) \$300.16 – Closet door replacement
- 5) \$120.00 – Closet rods and shelves

The Landlord stated that the Tenant removed the closet doors, rods, and shelves in multiple bedrooms. The above costs were simply the costs to have these items re-installed. The Landlord stated that the items were either damaged beyond repair or missing completely. For example, the Tenant had taken one of the doors and used in to contain horses, and as a result it was damaged severely. Receipts were provided into evidence.

- 6) \$1,735.00 – Lost rent during cleanup period

The Landlord stated that this amount is comprised of one month's rent (\$1,650.00), plus 1.5 days (per diem rate). The Landlord is seeking this amount because this is how long it took to remediate the unit. The Landlord stated that once the unit was cleaned up, he

was immediately able to re-rent it but he lost this whole month's rent due to the cleanup he had to do before re-renting it.

Analysis

In this instance, the burden of proof is on the Landlords 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 Tenant. Once that has been established, the Landlord 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.

Based on all of the above, the evidence (photos, and invoices) and the undisputed testimony provided at the hearing, I find the Landlord has sufficiently demonstrated that the Tenant is responsible for all of the items listed, and as laid out above.

The Tenant left behind significant disrepair, and a large amount of debris, and garbage. I accept that this would have taken a significant amount of time to remediate and clean up. Since the Tenant failed to leave the unit in a reasonably clean state, I find she is liable for the lost rent for the following month, given the unit was likely not rentable until the mess she left was cleaned up.

I award the Landlord the full amount of his claim. I find the estimates, invoices, and amounts are all reasonable, given the damage and mess left behind. I award \$4,355.81.

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.

In summary, I find the Landlord is entitled to a monetary order in the amount of \$4,455.81.

Conclusion

The Landlord is granted a monetary order in the amount of \$4,455.81, as specified above. This order must be served on the Tenant. If the Tenant fails 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: September 24, 2020

Residential Tenancy Branch