



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDL-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 money owed or compensation for monetary loss or money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:41 p.m. in order to enable the tenant to call into this teleconference hearing scheduled for 1: 30 p.m. The landlord's agent, XL, ("landlord") attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord's agent and I were the only ones who had called into this teleconference.

The landlord's agent testified that the tenant was served with the landlord's application for dispute resolution hearing package ('Application') and evidence on June 10, 2020 by way of registered mail. The landlord provided tracking information in their evidence package, with confirmation that the package was delivered. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenant deemed served with the landlord's application and evidence on June 15, 2020, five days after its registered mailing. The tenant did not submit any written evidence for this hearing.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for money owed or losses?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This tenancy began on July 1, 2018, and ended on June 30, 2019. Monthly rent was set at \$8,000.00, payable on the first of every month. The landlord collected a security deposit in the amount of \$8,000.00, which they still hold.

The landlord seeking the following monetary orders for losses and money owed:

Item	Amount
Broken Blinds	\$260.00
Broken Tiles	240.00
Missing Electric Switch Cover	60.00
3 broken locks	180.00
Broken electric wiring	350.00
Changed 2 new locks	480.00
2 new 2 way switch	80.00
Replacement of fan in jacuzzi	750.00
Trouble shooting toilets	300.00
Repair toilet seats	350.00
Garage Door	241.50
Cleaning Fee	735.00
Stove Top repair	621.83
Carpet Cleaning	420.00
Tax for repairs	152.50
Unpaid Utilities	3,033.00
Filing Fee	100.00
Total Monetary Order Requested	\$8,353.83

The landlord testified that the tenant moved out, and did not attend the scheduled move-out inspection. The landlord testified that the tenant left the home with extensive

damage and failed to clean the home. The landlord provided the move-in and move-out inspection reports, as well as photos and invoices in support of the above claims.

The landlord is also seeking a monetary order for unpaid utilities. The landlord testified that the had received over \$12,621.84 in utility bills that remain unpaid for the tenancy. The landlord reduced the amount owed to \$3,033.00 as the tenant expressed concern over the exceptionally high bill. The landlord reduced the amount owing to reflect the average previous utility bill for the home, taking in consideration the number of occupants.

Analysis

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

I find that the landlord provided sufficient evidence to support that the tenant had failed to pay the outstanding utilities for this tenancy. Although the tenant may have had an issue with the amount owed, I find that the tenant did not attend the hearing to dispute the landlord's monetary claim, nor did the tenant file an application to dispute the amount owed. I find that the landlord provided sufficient evidence to support that the tenant failed to pay the outstanding utilities for this tenancy, and I find the amount requested after the landlord's deduction to be reasonable. On this basis, I allow the landlord a monetary order in the amount of \$3,033.00 in outstanding utilities.

Section 37(2)(a) of the *Act* stipulates that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. I find that the landlord provided sufficient evidence to show that the tenant did not take reasonable care and attention when vacating the suite. I find that the landlord complied with sections 23 and 35 of the *Act* by performing condition inspection reports for both the move-in and move-out. I also note that the tenant had failed to comply with section 36 of the *Act* which requires the tenant to participate in the scheduled move out inspection. The consequence of not abiding by this section of the *Act* is that the right of the tenant to the return of a security deposit is extinguished.

I also find that the landlord supported their claims with inspection reports, photos, and invoices. Accordingly, I find the landlord is entitled to compensation for the losses listed in their claim.

I find that the landlord's Application has merit and that the landlord is entitled to recover the fee for filing this Application.

In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenant's security deposit in partial satisfaction of the monetary claim.

Conclusion

I issue a Monetary Order in the amount of \$4,353.83 in the landlord's favour which allows a monetary award for damage and losses caused by the tenant, money owed by the tenant for unpaid utilities, and retention of the security deposit in partial satisfaction of the monetary award. The landlord is also authorized to recover \$100.00 for the filing fee.

The landlord is provided with this Order in the above terms and the tenant must be served with a copy of 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: October 7, 2020

Residential Tenancy Branch