



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDL, MNDCL, MNRL-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 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 1:49 p.m. in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m. The 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, landlord's witness, and I were the only ones who had called into this teleconference.

The landlord testified that the tenant was served with the application and evidence package by way of registered mail on June 18, 2020. The landlord provided the tracking information as well as proof of delivery in their evidentiary materials. In accordance with sections 88, 89, and 90 of the *Act*, I find the tenant deemed served with the package on June 23, 2020, 5 days after mailing.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for unpaid rent and losses?

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

Background and Evidence

This fixed-term tenancy began on September 1, 2017, and ended on October 27, 2018. Monthly rent was set at \$2,100.00, payable on the first of every month. The landlord collected a security deposit in the amount of \$1,050.00, and a pet damage deposit in the amount of \$250.00. The landlord testified that they had returned a portion of the deposit to the other tenants, and still hold the tenant's share of the deposits in the amount of \$867.00.

The landlord is requesting monetary compensation as follows:

Unpaid Rent for February 2020	\$700.00
Unpaid Rent for March 2020	700.00
Unpaid Rent for April 2020	700.00
Unpaid Rent for May 2020	1,000.00
Unpaid Rent for June 2020	2,100.00
Unpaid Bylaw infraction	100.00
Post Office Key Replacement	50.00
Garage Door Remote Replacement	52.99
Repair to Damaged Garage Door	1,545.60
Carpet Cleaning	519.75
Damage to Bedroom Door	300.00
Damage to Shower Drain	40.00
Garbage Removal & Truck Rental	120.00
Filing Fee	100.00
Total Monetary Award Requested	\$7,828.34

The landlord provided the following sworn testimony. The tenant moved out, and has not paid \$5,200.00 in outstanding rent for the period of March 2020 through to June 2020. The tenant was also assessed a \$200.00 bylaw infraction, and has only paid half of the fine.

The landlord testified that the tenant had moved out without communication to the landlord, and as a result the landlord was unable to complete a move-out inspection with the tenant. The landlord testified that the tenant failed to return the garage remote and mail box keys, which cost the landlord \$102.99 to replace.

The landlord testified that the tenant failed to leave the home in reasonably clean and undamaged condition, leaving the garage full of the tenant's belongings and garbage. The landlord provided a list of the losses associated with the damage left by the tenant as well as invoices, quotations, and video footage showing the condition of the rental

unit left by the tenant.

Analysis

Section 26 of the Act, in part, states as follows:

Rules about payment and non-payment of rent

26 (1) *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

I find that the tenant was obligated to pay the rent per the tenancy agreement and the Act. I find the landlord provided undisputed evidence to support that the tenant has failed to pay \$5,200.00 in outstanding rent for this tenancy. I find that the tenant did not have an order from an Arbitrator allowing them to deduct all or a portion of the rent, nor do I find that the tenant had a right under the Act to deduct or withhold all or portion of the rent. Accordingly I find that the landlord is entitled to \$5,200.00 in outstanding rent for this tenancy.

I am also satisfied that the landlord had provided sufficient evidence to support that the tenant had failed to pay \$100.00 for a bylaw infraction incurred by the tenant. Accordingly, I allow this portion of the landlord's monetary claim.

I accept the undisputed testimony of the landlord that the tenant had moved out without properly informing the landlord, or returning the keys, resulting in a monetary loss for the landlord. I allow the landlord's monetary claim for rekeying of the mail box and garage door.

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 condition except for reasonable wear and tear. I have reviewed the landlord's monetary claim for damages losses, and have taken in consideration of the evidential materials submitted by the landlord, as well as the sworn testimony provided by the landlord for this hearing.

I am satisfied that the landlord provided sufficient evidence to demonstrate that the tenant failed to comply with section 37(2)(a) at the end of this tenancy. I allow the

landlord's application for the cost of cleaning, garbage disposal, and repairs due to the tenant's failure to comply with the *Act*.

The filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. I allow the landlord to recover the filing fee for this application.

The landlord continues to hold the tenant's security deposit of \$867.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain tenant's security deposit in satisfaction of the monetary claim.

Conclusion

I issue a Monetary Order in the amount of \$6,961.34 in the landlord's favour as set out in the table below. I allow the landlord to retain the tenant's security deposit in partial satisfaction of their monetary claim.

Unpaid Rent for February 2020	\$700.00
Unpaid Rent for March 2020	700.00
Unpaid Rent for April 2020	700.00
Unpaid Rent for May 2020	1,000.00
Unpaid Rent for June 2020	2,100.00
Unpaid Bylaw infraction	100.00
Post Office Key Replacement	50.00
Garage Door Remote Replacement	52.99
Repair to Damaged Garage Door	1,545.60
Carpet Cleaning	519.75
Damage to Bedroom Door	300.00
Damage to Shower Drain	40.00
Garbage Removal & Truck Rental	120.00
Filing Fee	100.00
Less Security Deposit Held by Landlord	-867.00
Total Monetary Award	\$6,961.34

The landlord is provided with this Order in the above terms and the tenant(s) must be served with a copy of this Order as soon as possible. Should the tenant(s) 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 14, 2020

Residential Tenancy Branch