



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S MNRL-S FFL

Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) for a monetary order for unpaid rent or utilities, for damages to the unit, site or property, to retain the tenant's security deposit towards any amount owing, and to recover the cost of the filing fee.

The landlord attended the teleconference hearing and gave affirmed testimony. During the hearing the landlord was given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated September 18, 2020 (Notice of Hearing), application and documentary evidence were considered. The landlord testified that the Notice of Hearing, application and documentary evidence were served on the tenant by registered mail on September 18, 2020. The landlord stated that the address used for the tenant was provided by the tenant in their forwarding address provided by text to the landlord on September 12, 2020 and received later in writing on October 2, 2020. The registered mail tracking number has been included on the Style of Cause for ease of reference. According to the Canada Post registered mail tracking website, the registered mail package was delivered on September 21, 2020. Section 90 of the Act states that documents sent by registered mail are deemed served 5 days after they are mailed. Therefore, I find the tenant was deemed served as of September 23, 2020.

Given the above, I find this application to be unopposed by the tenant as I find the tenant was duly served on September 23, 2020 and did not attend the hearing.

Pursuant to Rules 7.1 and 7.3 of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules), the hearing continued without the tenant present.

Preliminary and Procedural Matter

The landlord confirmed their email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. The decision will be emailed to the tenant at the email address provided by the landlord in their application and confirmed during the hearing.

Issues to be Decided

- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?
- What should happen to the tenant's security deposit under the Act?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on May 15, 2020. Monthly rent of \$1,575.00 was due on the 15th day of each month; however, the landlord testified that at the tenant's request, they mutually agreed that rent was due on the 1st day of each month as that worked better for the tenant. The tenant paid a security deposit of \$775.00 at the start of the tenancy, which the landlord continues to hold, and of which has accrued \$0.00 in interest to date under the Act.

The landlord's monetary claim of \$2,017.26 is comprised as follows based on the monetary order worksheet submitted in evidence:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Trailer rented to haul garbage to dump	\$129.21
2. Dump costs	\$45.00
3. Cleaning supplies	\$71.23
4. New door lock and deadbolt	\$91.82
5. Cleaning costs (8 hours x 4 people @ \$25.00/hour)	\$800.00
6. Carpet cleaning	\$150.00
7. Loss of portion of September 1-14, 2020 rent	\$630.00
8. Filing fee	\$100.00
TOTAL	\$2,017.26

The landlord stated that the tenancy ended based on an undisputed 10 Day Notice to End the Tenancy for Unpaid Rent or Utilities dated September 2, 2020 (10 Day Notice), a copy of which was submitted in evidence for my consideration. The landlord testified that the tenant did not dispute the 10 Day Notice and vacated the rental unit on September 12, 2020. The landlord stated that the tenant failed to stay and participate in the outgoing inspection scheduled for September 12, 2020.

The landlord presented the incoming Condition Inspection Report (CIR) dated May 15, 2020, which was signed by both parties. The landlord stated that they completed the outgoing CIR on September 12, 2020, after the tenant left without participating in the outgoing CIR. The landlord did not submit the outgoing CIR for my consideration.

Regarding item 1, the landlord has claimed \$129.21 for the cost to rent a trailer to haul the large amount of garbage left in the rental unit. The landlord presented many colour photos showing many bags of garbage that the landlord stated were not filled with personal items of value, only garbage and had to be taken to the dump. The landlord also stated that the rental unit was not furnished and that the tenant left behind an old couch, desk and other items of no value based on their condition, which were also taken to the dump. These items were supported by photo evidence presented during the hearing. The landlord also provided the receipt for the amount claimed.

Regarding item 2, the landlord has claimed \$45.00 for the cost to dump the garbage that the landlord stated was left behind at the rental unit left by the tenant. The landlord referred to a receipt submitted in evidence in the amount of \$45.00 for dumping costs and several colour photos supporting all of the garbage left behind by the tenant.

Regarding item 3, the landlord has claimed \$71.23 for the cost of cleaning supplies. The landlord submitted many colour photos showing what appears to be a rental unit full of garbage and discarded personal items of no value. The landlord presented a receipt for cleaning supplies in the amount claimed. The landlord stated that all of the cleaning time will be addressed in item 5, which relates to the labour to clean the rental unit to a reasonable standard.

Regarding item 4, the landlord has claimed \$91.82 for a new door lock and deadbolt as the tenant failed to provide accurate instructions on where to find the rental unit keys and they were not found until after the lock and deadbolt had been replaced. The landlord testified that instead of the tenant returning the keys in person to the landlord they hid the keys between some concrete pieces, which could not be located until after

the locks had already been changed to the rental unit. The landlord presented a receipt for the amount claimed in evidence.

Regarding item 5, the landlord has claimed \$800.00 for cleaning costs. The landlord testified that it took a team of 4 friends a total of 8 hours each at \$25.00 per hour to clean the rental unit to a reasonably clean condition. The landlord presented many colour photos which the landlord stated show a rental unit in need of much cleaning. The photos show the kitchen countertops full of what appear to be items of no value left behind by the tenant. The floors are covered in items including full garbage bags and other items. The kitchen countertops and sink are full and could not be clean as they are covered in items that first had to be removed.

The landlord clarified that the rental unit was not provided furnished, so all of the junk left behind including a worthless couch and worthless desk, had to be removed and taken to the dump. There are pieces of items and toys lying across the flooring and the laundry room floor can not be seen due to the large amount of clothing that the landlord stated was piled high and smelled horrible due to two cats urinating all over the clothing. The landlord stated that no pets were permitted in the rental unit and the tenant had two cats without the permission of the landlord. Other photos show boxes in other areas of the rental unit and more items on the floor. The landlord stated that unless all of the cleaning took place, there was no chance to re-rent the rental unit.

Regarding item 6, the landlord has claimed \$150.00 for carpet cleaning; however, was able to reduce that amount to \$80.00 by renting their own carpet cleaning machine versus hiring a carpet cleaning company.

Regarding item 7, the landlord has claimed \$630.00 for the per diem loss of rent for September 1-14, 2020; however, admitted that the actual loss of rent was higher, in the amount of \$787.50. The landlord clarified that new tenants were found and moved in for September 15, 2020 and paid the same monthly rent, so from September 15, 2020 to September 30, 2020, the new tenants paid the landlord \$787.50, resulting in a loss of rent of \$787.50 for September 1-14, 2020 inclusive. The landlord stated that they worked incredibly hard to have the rental unit cleaned in 3 days so that new tenants could rent the rental unit as soon as possible. The landlord stated that \$787.50 is half of the monthly \$1,575.00 rent and that the rent was not increased for the new tenants.

The landlord is also seeking the filing fee of \$100.00 under the Act.

Analysis

Based on the undisputed documentary evidence and the undisputed testimony of the landlord provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant was served with the Notice of Hearing, application and documentary evidence and did not attend the hearing, and as noted above, I consider this matter to be unopposed by the tenant.

Item 1 - The landlord has claimed \$129.21 for the cost to rent a trailer to haul the large amount of garbage left in the rental unit and I find that the tenant breached section 37(2)(a) of the Act, which applies and states:

Leaving the rental unit at the end of a tenancy

37(2) When a tenant vacates a rental unit, the tenant must

(a) **leave the rental unit reasonably clean**, and undamaged except for reasonable wear and tear, and

(b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

[Emphasis added]

Based on all of the colour photos before me, I find the tenant failed to leave the rental unit in a reasonably clean condition and as a result, I grant the landlord the full amount of **\$129.21** claimed for this item as claimed.

Item 2 - The landlord has claimed \$45.00 for the cost to dump the garbage that the landlord stated was left behind at the rental unit left by the tenant. Consistent with my finding for item 1 and given that I find the tenant breached section 37(2)(a) of the Act, I find the landlord has met the burden of proof. Therefore, I grant the landlord **\$45.00** for this item as claimed.

Item 3 - The landlord has claimed \$71.23 for the cost of cleaning supplies. I find the colour photos support that the rental unit contained a lot of garbage and discarded personal items of no value and had to be cleaned. Therefore, consistent with my finding for item 1 and given that I find the tenant breached section 37(2)(a) of the Act, I find the

landlord has met the burden of proof. Therefore, I grant the landlord **\$71.23** for this item as claimed.

Item 4 - The landlord has claimed \$91.82 for a new door lock and deadbolt. Based on the undisputed testimony before me, I find the tenant breached section 37(2)(b) of the Act, which applies and states:

Leaving the rental unit at the end of a tenancy

37(2) When a tenant vacates a rental unit, the tenant must

(b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

[Emphasis added]

This section does not state hide the keys or place the keys in an area where the landlord may not find the keys, and as a result, I find the tenant placing the keys between concrete pieces making them hard to find and without handing the keys to the landlord, results in the tenants being liable for the costs claimed for this item. Therefore, I find the landlord has met the burden of proof and I grant the landlord **\$91.82** for this item as claimed.

Item 5 - The landlord has claimed \$800.00 for cleaning costs, which is comprised of a team of 4 of the landlord's friends, taking a total of 8 hours each at \$25.00 per hour to clean the rental unit to a reasonably clean condition. I find the colour photos supported that the tenant left the rental unit in a very dirty condition and with many items that required removal before cleaning could even take place. Therefore, consistent with my finding for item 3 above, and given that I find the tenant breached section 37(2) of the Act, I find the landlord has met the burden of proof. Therefore, I grant the landlord **\$800.00** for this item as claimed.

Item 6 - The landlord reduced this portion of their claim from \$150.00 to \$80.00 during the hearing, which I find does not prejudice the tenant. Therefore, consistent with my finding for item 5 above, and given that the carpet was covered with many items at the end of the tenancy, I find that the carpets could not have been cleaned by the tenant as they were not cleared for cleaning. Therefore, I find the landlord has met the burden of proof and I grant the tenant **\$80.00** as claimed for this portion of their claim.

Item 7 - The landlord has claimed \$630.00 for the per diem loss of rent for September 1-14, 2020; however, admitted that the actual loss of rent was higher, in the amount of \$787.50. I agree with the landlord and I find that the landlord is not required to reduce this portion of their claim to \$630.00 when in fact, the landlord lost \$787.50. Therefore, I find that based on the tenant's breach of section 26 of the Act, that states that rent is due on the first of each month based on the undisputed evidence before me, and which is supported by the undisputed 10 Day Notice submitted in evidence, I find the tenant owes the landlord **\$787.50** and I grant the landlord that amount. I do not find the increase between \$630.00 and \$787.50 is prejudicial to the tenant as I find the tenant would know or ought to have known that the landlord would suffer a loss of rent when the tenant did not vacate the rental unit until September 12, 2020 and left the rental unit in a very dirty condition with many items that required removal and disposal.

As the landlord's application was fully successful, I grant the landlord **\$100.00** pursuant to section 72 of the Act.

I find the landlord has established a total monetary claim of **\$2,104.76** as follows:

ITEM DESCRIPTION	AMOUNT AWARDED
1. Trailer rented to haul garbage to dump	\$129.21
2. Dump costs	\$45.00
3. Cleaning supplies	\$71.23
4. New door lock and deadbolt	\$91.82
5. Cleaning costs (8 hours x 4 people @ \$25.00/hour)	\$800.00
6. Carpet cleaning	\$80.00
7. Loss of portion of September 1-14, 2020 rent	\$787.50
8. Filing fee	\$100.00
TOTAL	\$2,104.76

I authorize the landlord to retain the tenant's full security deposit of \$775.00 in partial satisfaction of the landlord's monetary claim. I find the security deposit accrued \$0.00 in interest under the Act. **I grant** the landlord a monetary order pursuant to section 67 of the Act, for the balance owing in the amount of **\$1,329.76**.

I caution the tenant to comply with sections 26 and 37 of the Act in the future.

Conclusion

The landlord's application is fully successful.

The landlord has been authorized to retain the tenant's full security deposit of \$775.00, which includes \$0.00 in interest, in partial satisfaction of the landlord's monetary claim. The landlord has been granted a monetary order pursuant to section 67 of the Act, for the balance owing in the amount of \$1,329.76. The landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division). The tenant may be held liable for the costs associated with enforcing the monetary order.

This decision will be emailed to both parties. The monetary order will be emailed to the landlord only for service on the tenant.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 23, 2020

Residential Tenancy Branch