



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BODEWELL REALTY INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCL-S, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- an order authorizing the landlord the recovery of the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted via teleconference and was attended by the landlord's agent. No one was in attendance on behalf of the tenant. The agent submitted documentary evidence that the tenant was served notice of this application and this hearing by registered mail on August 18, 2020. Canada Post tracking information was submitted in the landlord's evidence that shows that the item was signed for and accepted by the tenant on August 20, 2020. Based on the submissions of the agent, I find the tenant was served in accordance to section 89 of the *Act*. Therefore, I continued in the absence of the tenant.

Issue to be Decided

Is the landlord entitled to a monetary award for loss or damage arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's security or pet deposit in full satisfaction of the monetary award requested?

Is the landlord entitled to the recovery of the filing fee?

Background, Evidence

The landlord's agent undisputed testimony is as follows. The tenancy began on April 28, 2020 and ended on July 31, 2020. The tenant was obligated to pay \$2000.00 per month in rent in advance and at the outset of the tenancy the tenant paid a \$1000.00 security deposit and \$1000.00 pet deposit which the landlord still holds. The agent testified that the tenant broke the one-year fixed term agreement without cause or justification, which resulted in the landlord having to re-rent the unit and incur the costs of the rental agent earlier than expected, triggering the liquidated damages clause. The agent also testified that the tenant required an additional key and fob during the tenancy which she was to pay for but never did.

The landlord is applying for the following:

1.	Liquidated Damages	\$1050.00
2.	Fob and key replacement	85.00
3.	Filing Fee	100.00
4.		
5.		
6.		
7.		
8.		
9.		
10.		
	Total	\$1235.00

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 provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

The landlord's agent provided extensive documentation, undisputed testimony, and receipts to corroborate their claim for the costs incurred. I find that the landlord is entitled to the amount sought including the recovery of the filing fee for a total award of \$1235.00.

Conclusion

The landlord has established a claim for \$1235.00. I order that the landlord retain that amount from the \$2000.00 in deposits that they presently hold and return the remaining \$765.00 to the tenant. I grant the tenant an order under section 67 for the balance due of \$765.00. This order may be filed in the Small Claims 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: December 03, 2020

Residential Tenancy Branch